

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): March 1, 2021

Crawford United Corporation
(Exact Name of Registrant as Specified in Charter)

Ohio
(State or Other Jurisdiction
of Incorporation)

000-00147
(Commission
File Number)

34-0288470
(IRS Employer
Identification No.)

10514 Dupont Avenue
Cleveland, Ohio
(Address of Principal Executive Offices)

44108
(Zip Code)

(216) 541-8060
(Registrant's telephone number, including area code)

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 (see General Instruction A.2. below):

- 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))

Securities registered pursuant to Section 12(b) of the Act: None.

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.

Item 1.01. Entry Into Material Definitive Agreement.

Transaction Agreement

Effective March 1, 2021, MTA Acquisition Company, LLC, a Delaware limited liability company (“MTA”) and indirect wholly-owned subsidiary of Crawford United Corporation (the “Company”), completed the acquisition (the “Transaction”) of all of the membership interests of Global-Tek-Manufacturing LLC, a Puerto Rico limited liability company and specialist in machining parts from wrought, rounds, castings or extrusions and providing in house anodizing and other finishing and assembly operations (“Global-Tek”) and substantially all of the assets of Machining Technology L.L.C., a Colorado limited liability company with CNC machining capability (“Machining Technology”), pursuant to a Membership Interest and Asset Purchase Agreement (the “Purchase Agreement”) entered into March 2, 2021 and effective as of March 1, 2021 by and among (i) MTA; (ii) Kevin Curtis, an individual, and Stacy Curtis, an individual (collectively, the “Interest Sellers”); (iii) Machining Technology (together with the Interest Sellers, the “Sellers”); and Kevin Curtis, in his capacity as the representative of the Sellers.

MTA acquired the membership interests and assets in exchange for approximately \$4.9 million in cash and the repayment of remaining outstanding indebtedness and transaction costs totaling approximately \$1.58 million, subject to customary post-closing adjustments. The Purchase Agreement also includes a post-closing “earnout” that provides for up to an aggregate of \$1.5 million in additional consideration to the Interest Sellers (up to \$750,000 per year) if specified performance targets are met in the two years following closing. If earned, the additional consideration is payable in cash or, at the election of each Interest Seller, in Company common shares up to a maximum aggregate amount of 61,475 shares.

The Purchase Agreement contains customary indemnification obligations of each party with respect to breaches of their respective representations, warranties and covenants, and certain other specified matters, which are subject to certain exceptions, terms and limitations described further in the Purchase Agreement. The Membership Purchase Agreement contains certain customary post-closing covenants of the parties, including cooperation on tax and audit matters.

The parties to the Transaction have made customary representations, warranties and covenants in the Purchase Agreement. The representations, warranties and covenants set forth in the Purchase Agreement have been made only for the purposes of such agreement and were solely for the benefit of the parties to the Purchase Agreement, may be subject to limitations agreed upon by the contracting parties, including being qualified by confidential disclosures, may have been made for the purposes of allocating contractual risk between the parties to the Purchase Agreement instead of establishing these matters as facts, and may be subject to standards of materiality applicable to the contracting parties that differ from those applicable to investors. Accordingly, the Purchase Agreement is included with this filing only to provide investors with information regarding the terms of the Transaction, and not to provide investors with any other factual information regarding the parties or their respective businesses, and should be read in conjunction with the disclosures in the Company's periodic reports and other filings with the Securities and Exchange Commission.

A copy of the Purchase Agreement is attached as Exhibit 2.1 to this Current Report on Form 8-K and is incorporated in this Item 1.01 by reference. The foregoing description of the Purchase Agreement is a summary, does not purport to be complete and is qualified in its entirety by reference to the full text of the Purchase Agreement.

Credit Agreement

On March 2, 2021, Crawford United Corporation, an Ohio corporation (the “Company”), entered into a Fifth Amendment Agreement (the “Fifth Amendment”), which amends the Credit Agreement dated as of June 1, 2017, as modified and amended by that certain First Amendment Agreement, dated as of July 5, 2018, that certain Second Amendment Agreement, dated as of September 30, 2019, that certain Third Amendment Agreement, dated as of December 30, 2019 and that certain Fourth Amendment Agreement, dated as of January 15, 2021, by and among the Company, certain of the Company's subsidiaries, and JPMorgan Chase Bank, N.A. (as modified and amended, the “Credit Agreement”).

The Fifth Amendment to the Credit Agreement, among other things, increases the maximum aggregate principal amount that the Company and its subsidiaries may borrow under the revolving credit facility from \$20,000,000 to \$30,000,000, adds Global-Tek-Manufacturing LLC as a borrower and increases baskets and thresholds in certain covenants and defaults under the Credit Agreement.

The foregoing description of the Fifth Amendment to the Credit Agreement is a summary and is qualified in its entirety by reference to the full text of the Fifth Amendment which is attached to this Current Report on Form 8-K as Exhibit 10.1 and 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 under Item 1.01 of this Current Report on Form 8-K is incorporated by reference into this Item 2.03.

Item 7.01. Regulation FD Disclosure.

On March 2, 2021, the Company issued a press release announcing the Transaction. A copy of the Company's press release is furnished as Exhibit 99.1.

Item 9.01. Financial Statements and Exhibits.

(d) *Exhibits.*

<u>Exhibit No.</u>	<u>Description of Exhibit</u>
2.1	<u>Membership Interest and Asset Purchase Agreement effective as of March 1, 2021, by and among the MTA and the Sellers.</u>
10.1	<u>Fifth Amendment to Credit Agreement.</u>
99.1	<u>Press Release dated March 2, 2021.</u>

SIGNATURES

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.

CRAWFORD UNITED CORPORATION

By: /s/ John P. Daly

Name: John P. Daly

Title: Chief Financial Officer

Date: March 5, 2021

Exhibit Index

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MEMBERSHIP INTEREST AND ASSET PURCHASE AGREEMENT

THIS MEMBERSHIP INTEREST AND ASSET PURCHASE AGREEMENT (this “Agreement”), is entered into this 2nd day of March, 2021, and effective as of the 1st day of March, 2021, by and among (i) MTA Acquisition Company, LLC, a Delaware limited liability company (“Buyer”); (ii) Kevin Curtis, an individual, and Stacy Curtis, an individual (collectively, the “Interest Sellers” and each, an “Interest Seller”); (iii) Machining Technology L.L.C., a Colorado limited liability company (the “Asset Seller,” and together with the Interest Sellers, the “Sellers” and each a “Seller”); and Kevin Curtis, in his capacity as the representative of the Sellers hereunder (“Sellers’ Representative”).

RECITALS

A. The Interest Sellers collectively own all of the membership interests (the “Membership Interests”) of Global-Tek-Manufacturing LLC, a Puerto Rico limited liability company (the “Company”).

B. Buyer wishes to purchase from the Interest Sellers, and the Interest Sellers wish to sell to Buyer, the Membership Interests, upon and subject to the terms and conditions set forth in this Agreement (such transaction, the “Membership Interest Purchase”).

C. Asset Seller wishes to sell, and Buyer wishes to purchase, substantially all the assets owned by the Asset Seller used in the operation of the Business, upon and subject to the terms and conditions set forth in this Agreement (such transaction, the “Asset Purchase”).

D. The Interest Sellers are the owners of all of the equity of the Asset Seller and will substantially and directly benefit from the Asset Purchase.

Now, therefore, in consideration of the foregoing and of the mutual representations, warranties, covenants and agreements set forth in this Agreement, the parties hereto, intending to be legally bound, hereby agree as follows:

ARTICLE 1**Definitions**

1.1 Definitions. Certain terms used in this Agreement shall have the meanings ascribed to them in Article 10, or elsewhere herein as indicated in Article 10.

1.2 Accounting Terms. Accounting terms used in this Agreement and not otherwise defined herein shall have the meanings attributed to them under GAAP, except as may otherwise be specified herein.

ARTICLE 2**Purchase and Sale of Membership Interests and Assets**

2.1 Purchase and Sale of Membership Interests. Subject to the terms and conditions of this Agreement, Seller hereby sells, assigns, transfers and delivers to Buyer, free and clear of all Liens, and Buyer hereby purchases from Seller, all of Seller’s right, title and interest in and to all of the Membership Interests, as specifically identified on Schedule 4.2.

2.2 Purchase and Sale of Assets. Subject to the terms and conditions of this Agreement, Asset Seller hereby sells, assigns, transfers and delivers to Buyer, free and clear of all Liens, and Buyer hereby purchases from Asset Seller, all of Asset Seller's right, title and interest in and to all assets of the Asset Seller used in or useful to the Business (collectively, the "Purchased Assets"), in each case free and clear of all Liens of any kind whatsoever except Permitted Liens, including, without limitation:

(a) Accounts Receivable. All accounts receivable and all notes, bonds and other evidences of Indebtedness in favor of Asset Seller and rights to receive payments arising out of products sold and services rendered, including any rights of Asset Seller with respect to any third-party collection procedures or any other proceedings that have been commenced in connection therewith, together with the proceeds in respect of any of the foregoing, but excluding any accounts receivable owed to the Asset Seller by the Interest Sellers or the Company or any other Affiliate of the foregoing (the "Accounts Receivable");

(b) Fixed Assets. All machinery, equipment, furniture, furnishings, fixtures, tools, vessels, vehicles, computers and other tangible personal property used in the conduct of the Business by the Asset Seller;

(c) Goodwill. Any and all goodwill of Asset Seller;

(d) Intellectual Property. All Intellectual Property owned by the Asset Seller and used or held for use by the Asset Seller in the operation of the Business, including, the name "Machining Technology" and any variations or derivations thereof, together with all (i) royalties, fees, income, payments, and other proceeds now or hereafter due or payable to Seller with respect to such Intellectual Property; and (ii) claims and causes of action with respect to such Intellectual Property accruing before, on or after the date hereof, including all rights to and claims for damages, restitution and injunctive and other legal or equitable relief for infringement, misappropriation, or improper, unlawful or unfair use or disclosure of such Intellectual Property;

(e) Assumed Contracts. To the extent transferable, all Contracts of the Asset Seller relating to the operation and conduct of the Business and that are set forth on Schedule 2.2(e) (collectively the "Assumed Contracts");

(f) Inventory. Any and all inventory, including raw materials, samples, work-in-progress inventory, prepaid inventory, accessories, supplies, spare parts, finished goods and bill of material expense items (including shipping containers, labels and packaging materials), whether in the possession of the Asset Seller, on consignment or otherwise in the possession of a third party, or in transit to the Asset Seller;

(g) Listings. All of Asset Seller's interests in and to telephone and fax numbers, all listings in all telephone books and directories, stationery, forms, catalogs, brochures, art work, photographs, digital marketing materials and advertising and promotional materials, whether in written or electronic form, of Asset Seller;

(h) Permits and Certifications. To the extent transferable, (i) all Permits issued, directly or indirectly, to Asset Seller, and (ii) all certificates, registrations, accreditations, qualifications and approvals of any independent body or accreditation body issued, directly or indirectly, to Asset Seller;

(i) Books and Records. To the extent not Excluded Assets, all of the historical and current books and records of Asset Seller related to the Purchased Assets or the Business, including business records, files, research material, tangible data, documents, payroll and personnel records with respect to employees and other service providers (to the extent permitted by applicable Law), invoices, customer lists, vendor lists and service provider lists, whether in written or electronic form;

(j) Warranties. To the extent transferable, all rights, causes of actions, rights of recovery, rights of offset, rights of recoupment, claims and credits related to any Purchased Asset or any Assumed Liability, including all guarantees, warranties, indemnities and similar rights in favor of Asset Seller in respect of any Purchased Asset or any Assumed Liability

(k) Computer Systems. All computers, servers, software, hardware systems, databases, and other computer and telecommunication assets and equipment owned by Asset Seller; and

(l) Other Assets. All other assets of Asset Seller used in its operation of the Business (unless included in the Excluded Assets).

2.3 Excluded Assets. The following assets of Asset Seller (collectively, the “Excluded Assets”) are excluded from the Purchased Assets and shall remain Asset Seller’s property after the Closing: (a) all cash; (b) minute book, equity records, Tax Returns and other similar books and records; (c) all rights and interests under, and all assets of, any Business Plan owned by the Asset Seller and any commercial insurance policies held by Asset Seller; (d) all personnel records and other records that Asset Seller is required by applicable Law to retain in its possession; (e) all Contracts not specifically listed on Schedule 2.2(e), including the Contracts listed on Schedule 2.3(e) (collectively, the “Excluded Contracts”); (f) the assets set forth on Schedule 2.3(f); (g) any of the rights of Asset Seller under this Agreement (or under any other agreement between Asset Seller, on the one hand, and Buyer, on the other hand, entered into on or after the date of this Agreement); (h) all claims, causes of action, lawsuits or demands that Asset Seller has or may have against any Person, whether arising by way of counterclaim or otherwise, and any judgments or recoveries in favor or for the benefit of Asset Seller related to Excluded Assets or Retained Liabilities; (i) all non-assignable Permits; (j) all attorney-privileged communications with, and attorney work product for Asset Seller with respect to Excluded Assets or Retained Liabilities; and (k) all refunds, overpayments, or credits of Taxes either (i) of the Asset Seller or (ii) relating to the Asset Seller’s operation of the Business prior to the Closing or relating to, or imposed upon, the Purchased Assets, or their ownership, prior to the Closing. For sake of clarity, cash on hand in the Company as of the Closing shall be distributed to the Interest Sellers immediately prior to Closing.

2.4 Assumption of Certain Liabilities; Excluded Liabilities.

2.4.1 Assumed Liabilities. Asset Seller hereby assigns and transfers to Buyer, and Buyer hereby assumes and will perform, all of Asset Seller’s duties and obligations (collectively, the “Assumed Liabilities”) under: (a) the current liabilities of Asset Seller in the categories and to the extent of the amounts set forth on Schedule 2.4.1, which, in regard to accounts payable, shall only include accounts that arose from bona fide transactions in the ordinary course of business that are not delinquent (and in no event more than 90 days old as of the Closing); and (b) the Assumed Contracts but only to the extent (i) such performance or obligations thereunder (x) accrue or relate solely to the period from and after the Closing Date, and (y) are not related to nonperformance, noncompliance or other default by Asset Seller or any other party thereto as of, or prior to, the Closing Date, (ii) the corresponding benefits of such Contracts are validly assigned to, or otherwise received by, Buyer, including pursuant to Schedule 4.4, and (iii) such Contracts were entered into in the ordinary course of business.

2.4.2 Retained Liabilities. Except for the Assumed Liabilities, Buyer shall not have any obligation for, or with respect to, any Liabilities of Asset Seller of any nature whatsoever (whether asserted or unasserted, absolute or contingent, liquidated or unliquidated, accrued or unaccrued, whether due or to become due, and whether incurred prior to, on or after the Closing Date), including those arising from or relating to: (i) Asset Seller's operations on or prior to the Closing Date, including any Liability arising from the actual or alleged breach of any applicable Law (including any Liability arising under Environmental Law and relating to, or arising from, Asset Seller, the Business as operated by the Asset Seller, or the Purchased Assets, including relating to, or arising from, (x) the Leased Property or any other real property now or previously owned, operated or leased by Asset Seller, in each case for periods prior to the Closing Date, (y) the off-site transportation, disposal or arranging for the off-site disposal of any Hazardous Materials, or (z) the release of Hazardous Materials in, at, on, from or emanating from the Leased Property or any other real property presently or formerly owned, operated or leased by Asset Seller), (ii) any Indebtedness of Asset Seller that is not fully reflected or reserved for on the Final Adjustment Statement, (iii) any Business Plans owned by the Asset Seller, (iv) the breach of any Contract by Asset Seller occurring on or prior to the Closing Date, (v) any litigation or proceeding pending against Asset Seller, (vi) any product manufactured, distributed, shipped or sold, and any services provided (or the alleged failure to provide such services) by Asset Seller on or prior to the Closing Date (without regard to (x) the basis or theory of claim (negligence, strict tort, breach of express or implied warranty, fraud or failure to warn, test, inspect or instruct, infringement claims and any related claims, or otherwise), (y) the nature of the damages sought (property damage, economic loss, personal injury, wrongful death or other), or (z) whether the claim arose or is asserted before or after the Closing), (vii) any claims pending, or that may hereafter be made, against Asset Seller or any failure by Asset Seller to comply with all applicable Law regarding current or former employees or other service providers, (viii) any violation of fraudulent transfer or bulk sales laws by Asset Seller or Liabilities relating to or arising from any "defacto merger" or "successor in interest" theories of Liability, (ix) any Selling Expenses of the Asset Seller Parties, (x) the Taxes of the Asset Seller (including any liability for either failing to file any Tax Return or for unpaid Taxes of the Asset Seller, including based upon a Taxing Authority's re-characterization of a reported transaction), any Taxes related to the operation of the Business prior to the Closing, any Taxes related to, or imposed upon, the Purchased Assets, or their ownership, prior to the Closing, any obligations of Asset Seller to indemnify or otherwise assume or succeed to the Tax liability of any other Person by reason of Contract, assumption, transferee liability, operation of applicable Law, Section 1.1502-6 of the Treasury Regulations (or any predecessor or successor thereof, or any analogous or similar provision under applicable Law) or otherwise, and any and all Transfer Taxes, and (xi) any Excluded Asset, including any Excluded Contract (the Liabilities listed and described in this paragraph being collectively referred to as the "Retained Liabilities," and each a "Retained Liability").

2.5 Purchase Price. The aggregate consideration for the purchase of the Membership Interests and the Purchased Assets (the "Purchase Price") shall be (i) the assumption of the Assumed Liabilities, and (ii) an amount equal to:

- (a) Six Million Five Hundred Thousand Dollars (\$6,500,000);
- (b) minus the amount, if any, by which the Working Capital Target exceeds the Closing Working Capital, or plus the amount, if any, by which the Closing Working Capital exceeds the Working Capital Target;
- (c) minus the amount of the Closing Indebtedness;
- (d) minus the Selling Expenses; and
- (e) plus the Earn-Out Payments (as defined in Section 2.9), if any.

2.6 Withholding. Buyer shall be entitled to deduct and withhold from any consideration payable or otherwise deliverable pursuant to this Agreement any amounts as it may be required to deduct or withhold therefrom under the Code or under any provision of state, local or foreign applicable Law. To the extent such amounts are so deducted or withheld, such deducted and withheld amounts shall be paid over to the appropriate Taxing Authority and shall be treated for all purposes of this Agreement as having been paid to the Person to whom such consideration would otherwise have been paid.

2.7 Payment of Estimated Purchase Price; Payment of Indebtedness.

2.7.1 Estimated Purchase Price. Prior to the Closing, Sellers have estimated in good faith (and based upon the Pay-Off Documents) the amount of the Closing Working Capital, Closing Indebtedness and Selling Expenses as of 11:59 p.m. Eastern Standard Time on the Closing Date, and delivered to Buyer a certificate setting forth such estimates (the "Closing Certificate"). As used herein, (a) "Estimated Closing Working Capital," "Estimated Closing Indebtedness" and "Estimated Selling Expenses" mean the estimates of the Closing Working Capital, the Closing Indebtedness, and the Selling Expenses, respectively, set forth in the Closing Certificate, and (b) "Estimated Purchase Price" means an amount equal to the Purchase Price calculated as set forth in Section 2.5, (i) assuming that the Closing Working Capital is equal to the Estimated Closing Working Capital, that the Closing Indebtedness is equal to the Estimated Closing Indebtedness, and that the Selling Expenses are equal to the Estimated Selling Expenses, and (ii) excluding the Earn-Out Payments. The Closing Certificate has been prepared in accordance with GAAP. Subject to the terms and conditions of this Agreement, at the Closing, Buyer shall:

(a) pay and deliver to Sellers' Representative an amount (the "Closing Cash Payment") equal to the Estimated Purchase Price by means of a wire transfer of immediately available funds to such account as directed by Sellers' Representative prior to the Closing (the "Sellers' Account");

(b) on behalf of the Company and the Asset Seller, pay or cause to be paid the Closing Indebtedness set forth on Schedule 2.7.1(b) (the "Repaid Closing Indebtedness"); and

(c) on behalf of the Company and the Asset Seller, pay or cause to be paid the Selling Expenses.

2.7.2 Payoff Documents. Prior to Closing, the Sellers have delivered to Buyer (a) payoff letters relating to the Repaid Closing Indebtedness of the Company and the Asset Seller in a form satisfactory to Buyer (collectively, the "Pay-Off Documents"), which Pay-Off Documents shall (i) provide that, upon payment of a specified amount, all agreements, including pledges, mortgages and security interests evidencing such Repaid Closing Indebtedness shall terminate, without any continuing liability of the Company or the Asset Seller, as applicable, thereunder, (ii) include undertakings to provide appropriate evidence of such termination, cancellation or repayment (including UCC-3 termination statements and payoff letters in a form satisfactory to Buyer) and release and reconvey to the Company or the Asset Seller, as applicable, any intellectual property rights previously conveyed to the lenders of the Company or the Asset Seller, as applicable, to secure repayment of such Repaid Closing Indebtedness, and (iii) include undertakings to cause the redelivery of any membership interest certificates of the Company or the Asset Seller, as applicable, held pursuant to any terminated equity pledge agreements.

2.8 Post-Closing Adjustment.

2.8.1 Adjustment Statement Preparation. Within ninety (90) days after the Closing Date, Buyer shall cause to be prepared and delivered to Sellers' Representative an adjustment statement setting forth the amount of the Closing Working Capital, the Closing Indebtedness and the Selling Expenses, each as of 11:59 p.m. Eastern Standard Time on the Closing Date (the "Preliminary Adjustment Statement"), and Buyer's written calculation of the Purchase Price (excluding the Earn-Out Payments), and the adjustment necessary to reconcile the Estimated Purchase Price to the Purchase Price (the "Preliminary Post-Closing Adjustment"). The Preliminary Adjustment Statement shall be prepared in accordance with GAAP. Furthermore, the value of the inventory set forth in the Preliminary Adjustment Statement and the Final Adjustment Statement (as hereinafter defined) shall be determined based upon a physical count performed by Buyer (or its representatives) and observed by Sellers' Representative (or its representatives) promptly after the Closing. The Sellers and Sellers' Representative shall cooperate fully with Buyer in the preparation of the Preliminary Adjustment Statement.

2.8.2 Adjustment Statement Review. Sellers' Representative shall notify Buyer in writing no later than the thirtieth (30th) day after Sellers' Representative's receipt of the Preliminary Adjustment Statement and the Preliminary Post-Closing Adjustment setting forth in such written notice Sellers' Representative's objections to the Preliminary Adjustment Statement or the Preliminary Post-Closing Adjustment with particularity and the specific changes or adjustments which Sellers' Representative claims are required to be made thereto in order to conform the same to the terms of Section 2.8.1.

2.8.3 Adjustment Statement Dispute Resolution. If Sellers' Representative timely notifies Buyer in accordance with Section 2.8.2 of an objection to the Preliminary Adjustment Statement or the Preliminary Post-Closing Adjustment, and if Buyer and Sellers' Representative are unable to resolve such dispute through good faith negotiations within thirty (30) days after Sellers' Representative's delivery of such notice of objection, then the parties shall mutually engage and submit such dispute to, and the same shall be finally resolved in accordance with the provisions of this Agreement by the Cleveland, Ohio office of Cohen and Company (the "Independent Accountants"). The Independent Accountants shall determine and report in writing to Buyer and Sellers' Representative as to the resolution of all disputed matters submitted to the Independent Accountants and the effect of such determinations on the Preliminary Adjustment Statement and the Preliminary Post-Closing Adjustment within twenty (20) days after such submission or such longer period as the Independent Accountants may reasonably require, and such determinations shall be final, binding and conclusive as to Buyer, Sellers, Sellers' Representative and their respective Affiliates, absent manifest error. For purposes of complying with the terms set forth in this Section 2.8.3, each party shall cooperate with and make available to the other parties, their respective representatives, and the Independent Accountants, all information, records, data and working papers, and shall permit access to its facilities and personnel, as may be reasonably required in connection with the preparation and analysis of the Preliminary Adjustment Statement and the resolution of any disputes thereunder. With respect to each disputed item, the Independent Accountants shall adopt a position that is either equal to Buyer's proposed position, equal to Sellers' Representative's proposed position, or between the positions proposed by Buyer and Sellers' Representative. The fees and disbursements of the Independent Accountants shall be borne by the party (i.e., Buyer, on the one hand, or Sellers, on the other hand) that assigned amounts to items in dispute that were, on a net basis, furthest in amount from the amount finally determined by the Independent Accountants.

2.8.4 Final Adjustment Statement and Post-Closing Adjustment. The Preliminary Adjustment Statement and the Preliminary Post-Closing Adjustment shall become the "Final Adjustment Statement" and the "Final Post-Closing Adjustment," respectively, and as such each shall become final, binding and conclusive upon Buyer, Sellers, Sellers' Representative and their respective Affiliates for all purposes of this Agreement (and upon which a judgment may be entered by a court of competent jurisdiction), upon the earliest to occur of the following:

- (a) the mutual acceptance by Buyer and Sellers' Representative of the Preliminary Adjustment Statement and the Preliminary Post-Closing Adjustment, respectively, with such changes or adjustments thereto, if any, as may be proposed by Sellers' Representative and consented to in writing by Buyer;

(b) the expiration of thirty (30) days after Sellers' Representative's receipt of the Preliminary Adjustment Statement and the Preliminary Post-Closing Adjustment, respectively, without timely written objection thereto by Sellers' Representative in accordance with Section 2.8.2; or

(c) the delivery to Buyer and Sellers' Representative by the Independent Accountants of the report of their determination of all disputed matters submitted to them pursuant to Section 2.8.3, absent manifest error, in which case either party may within ten (10) days of receipt of such determination request a resolution of such manifest error.

Section 2.8.4: 2.8.5 Adjustment of Purchase Price. Upon determination of the Final Adjustment Statement pursuant to

(a) If the Purchase Price is less than the Estimated Purchase Price, Sellers' Representative (on behalf of all Sellers) shall pay the Final Post-Closing Adjustment to Buyer within five (5) Business Days of the final determination of the Final Post-Closing Adjustment by means of a wire transfer of immediately available funds to the Sellers' Account.

(b) If the Purchase Price is greater than the Estimated Purchase Price, Buyer shall pay the Final Post-Closing Adjustment to Sellers' Representative (for the benefit of all Sellers) within five (5) Business Days of the final determination of the Final Post-Closing Adjustment by means of a wire transfer of immediately available funds to an account designated in writing by the Buyer.

(c) Any payment by Buyer or Sellers under this Agreement, including pursuant to this Section 2.8.5 or Article 9, shall be treated as an adjustment to the Purchase Price, unless a contrary treatment is required by Law.

2.9 Earn-Out Payments.

2.9.1 Certain Definitions. As used in this Section 2.9:

(a) "Earnings" means earnings from the Business less all expenses attributable to the Business, including cost of goods sold, administrative expenses, operating expenses, depreciation, interest and taxes.

(b) "Earn-Out Payment" means each of the payments of cash or issuances of stock, as the case may be, described in Section 2.9.2 herein.

(c) "EBITDA" means the aggregate Earnings before interest, tax, depreciation, and amortization during the applicable Performance Period of (i) the Buyer using the Purchased Assets, and (ii) the Company.

(d) "EBITDA Target" means One Million Nine Hundred Thousand Dollars (\$1,900,000).

(e) "First Performance Period" means the period beginning on the Closing Date and ending on the one-year anniversary of the Closing Date.

(f) “Performance Period” means each of the First Performance Period and the Second Performance Period.

(g) “Second Performance Period” means the period beginning the day following the one-year anniversary of the Closing Date and ending on the two-year anniversary of the Closing Date.

2.9.2 Determination of Earn-Out Payments.

(a) If the EBITDA of the Business during the First Performance Period is equal to or greater than the EBITDA Target during the First Performance Period, Sellers shall be entitled to receive either (i) Seven Hundred Fifty Thousand Dollars (\$750,000); or, upon the delivery of written notice by Sellers’ Representative to Buyer no less than fifteen (15) days from the date of delivery of any Earn-Out Report (as defined in Section 2.9.3), (ii) an issuance of 15,368.86 shares of the capital stock of Ultimate Parent to each Interest Seller.

(b) If the EBITDA of the Business during the First Performance Period is equal to or greater than the EBITDA Target during the Second Performance Period, Sellers shall be entitled to receive either (i) Seven Hundred Fifty Thousand Dollars (\$750,000); or, upon the delivery of written notice by Sellers’ Representative to Buyer no less than fifteen (15) days from the date of delivery of any Earn-Out Report (as defined in Section 2.9.3), (ii) an issuance of 15,368.86 shares of the capital stock of Ultimate Parent to each Interest Seller.

(c) Notwithstanding anything herein to the contrary, if Sellers elect to receive any Earn-Out Payment in the form of an issuance of capital stock of Ultimate Parent as provided in this Section 2.9.2, Buyer shall have no obligation to make such issuance until such time as Sellers deliver any and all subscription or other documents that Ultimate Parent and/or Buyer deem necessary for such issuance.

2.9.3 Earn-Out Reports. As soon as practicable but in no event later than thirty (30) days following the end of each calendar quarter during the Performance Period, Buyer shall cause to be prepared and delivered to Sellers’ Representative a statement (each, an “Earn-Out Report”) setting forth such accountants’ calculation of the EBITDA realized during such calendar quarter of the Performance Period and, based upon such calculations, the amount of the Earn-Out Payment, if any, payable to Sellers with respect to such Performance Period. All information of Buyer or the Company contained in the Earn-Out Reports is Confidential Information and shall be treated as such by Sellers and Sellers’ Representative in accordance with Section 8.7.

2.9.4 Payment of Earn-Out Payments; Dispute Regarding Determination.

(a) Within fifteen (15) days of the delivery of each Earn-Out Report for a full Performance Period (each, a “Dispute Period”) by Buyer to Sellers’ Representative in accordance with Section 2.9.3, Sellers’ Representative may, in writing, dispute the amount of the Earn-Out Payment set forth in such Earn-Out Report; *provided, however*, that Sellers’ Representative waives any right to dispute the amount of the applicable Earn-Out Payment set forth in such Earn-Out Report if he fails to notify Buyer of a dispute within the applicable Dispute Period. In the event that Sellers’ Representative fails to notify Buyer of any dispute within the applicable Dispute Period, then Buyer shall pay to Sellers the Earn-Out Payment, if any, set forth in such Earn-Out Report within ten (10) Business Days of the expiration of the Dispute Period by means of a wire transfer of immediately available funds to the Sellers’ Account. If Sellers’ Representative notifies Buyer in writing within such Dispute Period that he agrees with Buyer’s calculation of the Earn-Out Payment, then Buyer shall pay to Sellers such Earn-Out Payment, if any, within ten (10) Business Days of receipt of such notification from Sellers’ Representative.

(b) In the event of any dispute between Buyer and Sellers' Representative with respect to the determination of any Earn-Out Payment, each party shall negotiate in good faith in an effort to resolve the dispute without any formal proceeding. If Buyer and Sellers' Representative are unable to resolve the dispute within the thirty (30)-day period following Sellers' Representative's delivery of a written dispute, Buyer and Sellers' Representative shall submit the dispute to the Independent Accountants. As promptly as practicable thereafter, but not later than sixty (60) days after written submissions by Buyer and Sellers' Representative to the Independent Accountants, which written submissions shall occur within five (5) days after Buyer and Sellers' Representative fail to resolve a dispute involving the Earn-Out Payment, the Independent Accountants shall determine and report in writing to Buyer and Sellers' Representative as to their resolution of the dispute and the effect of such determination on the Earn-Out Payment, which shall be final, binding and conclusive as to parties and their respective Affiliates and upon which a judgment may be entered in a court of competent jurisdiction (any such determination by the Independent Accountants is referred to as the "Final Earn-Out Payment"). For purposes of complying with the terms set forth in this Section 2.9.4, Buyer and Sellers' Representative shall cooperate with, and make available to, each other, their respective representatives, and the Independent Accountants, all information, records, data and working papers as may be reasonably required in connection with the preparation and analysis of the applicable Earn-Out Payment and the resolution of any disputes related thereto. If the Independent Accountants determine that a Final Earn-Out Payment is owed by Buyer to Sellers, then Buyer shall pay such Final Earn-Out Payment to Sellers by means of a wire transfer of immediately available funds to the Sellers' Account within ten (10) Business Days of the parties' receipt of the Independent Accountants' final determination. The fees and disbursements of the Independent Accountants shall be borne by the party (*i.e.*, Sellers, on the one hand, and Buyer, on the other hand) that assigned an amount that was furthest in amount from the amount of the Final Earn-Out Payment.

2.9.5 Post-Closing Operation of the Company and the Asset Seller. The parties intend the express provisions of this Agreement solely to govern their contractual relationship. Sellers acknowledge and agree that: (a) the potential payment of any Earn-Out Payment is speculative and subject to numerous factors outside the control of Buyer; (b) Buyer has no obligation to operate or to operate the Company or the Business in a manner designed generally or specifically to achieve or maximize any Earn-Out Payment and owes no fiduciary duty or express or implied duty to Sellers in this regard; and (c) following the Closing, Buyer shall have sole discretion with regard to all matters relating to its operation and the operation of the Company and the Business. Notwithstanding the foregoing, Buyer shall not intentionally and knowingly take, or intentionally and knowingly not take, any action or series of actions the direct and primary purpose of which (at the time the action is taken or not taken) is reducing any Earn-Out Payment that may become payable hereunder. Further, without constriction or waiver of Buyer's rights regarding post-Closing operation of the Company and the Business as set forth herein, during the Performance Period, Buyer agrees to consult with Sellers in good faith regarding the incursion for allocation of overhead expenses, transfer of business or contracts from Company, relocation of principal place of business of Company from Puerto Rico, and hiring additional employees.

2.9.6 No Security. The parties hereto understand and agree that: (a) the contingent rights to receive any Earn-Out Payment shall not be represented by any form of certificate or other instrument, are not transferable, except by operation of Laws relating to descent and distribution, divorce and community property, and do not constitute an equity or ownership interest in Buyer or the Company; (b) Sellers shall not have any rights as a securityholder of Buyer or the Company as a result of such rights; and (c) no interest is payable with respect to any Earn-Out Payment.

2.10 Allocation of the Purchase Price. The payment by Buyer of the Purchase Price (including any additional amount required to be paid by Buyer pursuant to Section 2.8.5) into the Sellers' Account shall constitute payment by Buyer to each Seller and satisfaction of Buyer's obligation to pay such amount hereunder. Any collective obligations of Sellers, including, without limitation, certain indemnification obligations and the payment of transaction fees and expenses shall be allocated among Sellers in accordance with Schedule 2.9. The Estimated Purchase Price, including any adjustment thereto, also shall be allocated to Sellers in accordance with Schedule 2.9. The portion of the Purchase Price allocated to each Seller (net of obligations and any reserves or holdbacks for indemnification obligations or otherwise established pursuant to this Agreement) shall be paid and distributed to such Seller by means of a wire transfer of immediately available funds to an account designated by such Seller to Sellers' Representative prior to, on or after the Closing. Nothing in this Section 2.9 or in Schedule 2.9 is intended or shall be construed to confer on any Seller rights against Buyer related to the portion of the Purchase Price allocated to such Seller or the net proceeds received after delivery of same into the Sellers' Account.

ARTICLE 3

Representations and Warranties Concerning Sellers and the Transaction

Each Seller, on a joint and several basis, represents and warrants to Buyer as follows:

3.1 Authority and Capacity. Such Seller possesses all requisite legal right, power, authority and capacity (corporate or otherwise) to execute, deliver and perform this Agreement, and each other agreement, instrument and document to be executed and delivered by such Seller in connection herewith (collectively, the "Seller Ancillary Agreements"), and to consummate the transactions contemplated herein and therein. The execution, delivery and performance by such Seller of this Agreement and the Seller Ancillary Agreements and the consummation by such Seller of the transactions contemplated hereby and thereby have been duly and validly authorized (by corporate action or otherwise) on the part of such Seller. If such Seller is not a natural person, such Seller is duly organized, validly existing and in good standing (or the equivalent thereof) under the laws of its jurisdiction of formation.

3.2 Ownership. Schedule 3.2 sets forth each Seller's record ownership of the membership interests of the Company and of the Asset Seller, and no other Person holds any other equity interest or securities of the Company or the Asset Seller. Each Interest Seller is the beneficial and record owner and has good and marketable title to all of the Membership Interests and the Purchased Assets, free and clear of all Liens. No person has any arrangements or commitments obligating the Interest Sellers to sell or otherwise dispose of, or to purchase or redeem any of the Membership Interests. At the Closing, Buyer will acquire good and valid title to the Membership Interests and the Purchased Assets, free and clear of all Liens.

3.3 Execution and Delivery; Enforceability. This Agreement and each Seller Ancillary Agreement has been duly executed and delivered by such Seller and constitute the legal, valid and binding obligation of such Seller, enforceable in accordance with its terms, except as such enforcement may be limited by principles of equity. Such Seller is not a party to, subject to, or bound by any Order, or any Contract which would prevent the execution or delivery of this Agreement by such Seller, the sale of the Membership Interests to Buyer by the Company, or the sale of the Purchased Assets to Buyer by the Asset Seller.

3.4 Noncontravention. Such Seller is not required to submit any notice, report or other filing with, or obtain any consent, approval or authorization of, any Governmental Authority or any other Person in connection with the execution, delivery or performance of this Agreement or any Seller Ancillary Agreement, or the consummation of the transactions contemplated herein or therein. The execution, delivery and performance of this Agreement or any Seller Ancillary Agreement by such Seller will not result in a breach or violation of, or constitute a default (or an event that, with notice or lapse of time, or both, would constitute a default) under, or give rise to a right of any Person to accelerate, amend, modify or terminate, or require payments under, or require the authorization, consent or approval from any Person or result in the creation of any Lien upon the Membership Interests or the Purchased Assets pursuant to any Contract to which such Seller is a party. The execution and delivery by such Seller of this Agreement and any Seller Ancillary Agreement and the consummation by such Seller of the transactions contemplated hereby and thereby will not conflict with or violate the Company's or the Asset Seller's respective Organizational Documents or any Laws or permits applicable to such Seller or by which any of such Seller's properties or assets (including such Seller's respective Membership Interests or the Purchased Assets) are bound or are subject.

3.5 Legal Proceedings. There is no Order or action, suit, arbitration, proceeding, investigation or claim of any kind whatsoever, at Law or in equity, pending or, to the knowledge of such Seller, threatened against such Seller, which would give any Person the right to enjoin or rescind the transactions contemplated by this Agreement or otherwise prevent such Seller from complying with the terms and provisions of this Agreement or any Seller Ancillary Agreement.

ARTICLE 4

Representations and Warranties Concerning the Company and the Asset Seller

Each Seller, on a joint and several basis, represents and warrants to Buyer, as of the date of this Agreement, as follows:

4.1 Organization and Good Standing; Authority and Enforceability. The Company is a limited liability company duly organized, validly existing and in good standing under the laws of Puerto Rico. The Asset Seller is a limited liability company duly organized, validly existing and in good standing under the laws of Colorado. The Company has all requisite limited liability company power and authority to own and lease its assets and to operate its business as the same are now being owned, leased and operated by the Company, and the Asset Seller has all requisite limited liability company power and authority to own and lease its assets and to operate its business as the same are now being owned, leased and operated by the Asset Seller. Each of the Company and the Asset Seller is duly qualified or licensed to do business as a foreign entity in, and is in good standing in, each jurisdiction in which the nature of its business or the ownership of its properties requires it to be so qualified or licensed. Schedule 4.1 sets forth a true and complete list of (a) all jurisdictions in which each of the Company and the Asset Seller is qualified or licensed to do business as a foreign entity, (b) all directors and officers of each of the Company and the Asset Seller, (c) all bank, payroll and securities brokerage accounts of each of the Company and the Asset Seller and all authorized signers for each such account, and (d) all powers of attorney granted by each of the Company and the Asset Seller to any third-party that are currently in effect. Each of the Company and the Asset Seller possesses all requisite legal right, power, authority and capacity to execute, deliver and perform each agreement, instrument and document to be executed and delivered by the Company or the Asset Seller, as applicable, in connection herewith (if any) (collectively, the "Business Ancillary Agreements"), and to consummate the transactions contemplated herein and therein. All necessary limited liability company action on the part of each of the Company and the Asset Seller with respect to the consummation of the transactions contemplated hereby has been taken. Sellers have provided to Buyer a true, complete and correct copy of the Organizational Documents of each of the Company and the Asset Seller. The Organizational Documents of each of the Company and the Asset Seller are in full force and effect, and neither the Company nor the Asset Seller is in violation of any provision thereof.

4.2 Capitalization. The Membership Interests constitute all of the issued and outstanding membership interests of the Company and are owned by the Interest Sellers as set forth on Schedule 4.2, and the Interest Sellers are the owners of all of the issued and outstanding equity of the Asset Seller. All of the Membership Interests have been duly authorized and validly issued, are fully paid and nonassessable, and were issued in compliance with all applicable federal and state securities and other Laws and any preemptive rights, rights of first refusal or any other contractual rights of any Person. Except as set forth on Schedule 4.2, (a) there are no voting trusts, proxies, stockholder or other agreements or understandings with respect to the voting or transfer of the capital stock or other voting securities of the Company, (b) there does not exist nor is there outstanding any right, security or other agreement granted to, issued to, or entered into with, any Person to cause the Company to issue or sell any Membership Interests or other equity interests in or other securities of the Company to any Person (including any warrant, equity option, profits interest, equity appreciation right, or phantom equity, call, put, preemptive right, convertible debt obligation, subscription for equity or securities convertible into or exchangeable for Membership Interests or other equity interests in or other securities of the Company, or any other similar right, security, instrument or agreement), (c) there are no bonds, debentures, notes or other indebtedness which have the right to vote (or which are convertible into, or exchangeable for, securities having the right to vote) on any matters on which stockholders of the Company are entitled to vote and (d) there is no obligation, contingent or otherwise, of the Company to (i) repurchase, redeem or otherwise acquire any Membership Interests or other equity interests in the Company or rights convertible into, or exercisable or exchangeable for, any such interests, or (ii) provide funds to, or make any investment in (in the form of a loan, capital contribution or otherwise), or provide any guarantee with respect to the obligations of, any other Person.

4.3 Other Ventures. Neither the Company nor the Asset Seller owns of record or beneficially, any equity interest in any other Person, nor are either the Company or the Asset Seller a partner or member of any partnership, limited liability company, joint venture or similar arrangement or agreement.

4.4 Noncontravention. Except for the applicable notices required under the International Traffic in Arms Regulations (ITAR) (22 C.F.R. parts 120 through 130), neither the Company nor the Asset Seller is required to submit any notice, report or other filing with, or obtain any consent or other approval of any Governmental Authority or any other Person in connection with (a) the execution and delivery by Sellers or the Company of this Agreement, any Seller Ancillary Agreement or any Business Ancillary Agreement, (b) the consummation of the transactions contemplated hereby or thereby or (c) the continuing validity and effectiveness, immediately following the Closing, of any Material Contract, Lease or Permit of the Company or the Asset Seller. Except as set forth on Schedule 4.4, neither the execution and delivery by Sellers or the Company of this Agreement, any Seller Ancillary Agreement or any Business Ancillary Agreement, nor the consummation by Sellers or the Company of the transactions contemplated hereby or thereby, nor compliance by Sellers or the Company with any of the provisions hereof or thereof, will (i) conflict with or result in a breach of any provisions of the Organizational Documents of the Company or the Asset Seller, (ii) constitute or result in the breach of any term, condition or provision of, or constitute a default under (with or without notice or lapse of time, or both), or give rise to any right of termination, cancellation or acceleration with respect to, or give rise to any obligation of the Company or the Asset Seller to make any payments under, or result in the creation or imposition of a Lien upon any property or assets of the Company or the Asset Seller, as applicable, pursuant to, any Material Contract, Lease or Permit to which the Company or the Asset Seller is a party or by which the Company or the Asset Seller or their respective properties or assets may be subject, or (iii) violate any Order or Law applicable to the Company or the Asset Seller or any of their respective properties or assets.

4.5 Financial Statements.

4.5.1 Attached to Schedule 4.5.1(a) are true, correct and complete copies of (a) the audited financial statements of the Company for the fiscal years ended December 31, 2018 and 2019 (the “Audited Financials”), and the internally prepared financial statements of the Company for the fiscal year ended December 31, 2020; (b) the internally prepared financial statements of the Asset Seller for the fiscal years ended December 31, 2018, 2019, and 2020, and (c) the internally prepared balance sheets of the Company and the Asset Seller as of January 31, 2021 (collectively, the “Financial Statements”). The Audited Financials have been prepared in accordance with GAAP, consistently applied, and the internally prepared Financial Statements have been prepared in accordance with, as applicable, the Company’s or the Asset Seller’s past practices, without modification of the accounting principles used in the preparation thereof throughout the periods presented, and present fairly in all material respects the financial position of the Company or the Asset Seller, as applicable, as of the dates indicated and the results of operations for the periods then ended, including, without limitation, all revenue and expenses of the Company or the Asset Seller, as applicable. The Financial Statements are consistent in all material respects with the books and records of the Company or the Asset Seller, as applicable. The internally prepared balance sheets of the Company and the Asset Seller, as of January 31, 2021 and included in the Financial Statements are herein referred to as the “Acquisition Balance Sheets” (and each, an “Acquisition Balance Sheet”).

4.5.2 Neither the Company nor the Asset Seller has any liabilities (whether or not accrued, absolute, contingent, unliquidated or otherwise, whether due or to become due and regardless of when asserted), other than those (a) specifically reflected on the face of the Acquisition Balance Sheets, (b) incurred in the ordinary course of business consistent with past practice since the date of the Acquisition Balance Sheets, which have been recorded on the books and records of the Company or the Asset Seller, as applicable, in a manner consistent with the historical accounting practices of each, (c) liabilities arising under this Agreement, or (d) set forth on Schedule 4.5.2.

4.5.3 The books and records of the Company and the Asset Seller (a) reflect all items of income and expense and all assets and liabilities required to be reflected in the Financial Statements and (b) are complete and correct in all material respects.

4.6 Absence of Certain Changes or Events.

Since December 31, 2019, the business and operations of each of the Company and the Asset Seller have been conducted in the ordinary course of business, consistent with past practice. Without limiting the generality of the foregoing, except as set forth on Schedule 4.6, since December 31, 2019:

(a) there has not occurred any fact, event, development or circumstance that constitutes, or could reasonably be expected to constitute, a Material Adverse Effect;

(b) with respect to the each of the Company and the Asset Seller, no Person has (i) made any change in any Tax reporting or accounting principles, including with respect to (A) depreciation or amortization policies or rates, or (B) the payment of accounts payable or the collection of accounts receivable, (ii) settled or compromised any Tax liability, (iii) made, changed or rescinded any Tax election or accounting method; (iv) surrendered any right, benefit or grant in respect of Taxes, (v) filed an amended Tax Return, (vi) entered into any closing agreement with respect to Taxes or settled any Tax claim or assessment, (vii) incurred any liability for Taxes outside the ordinary course of business, (viii) failed to pay any Tax that became due and payable (including any estimated Tax payments), (ix) prepared or filed any Tax Return in a manner inconsistent with past practice, (x) consented to any extension or waiver of the limitation period applicable to any claim or assessment in respect of Taxes, or (xi) taken any action, or failed to take any action, that results in a violation of the terms and conditions of the Grants (as defined in Section 4.7.20), or that could otherwise result in their revocation or suspension;

(c) neither the Company nor the Asset Seller has incurred any Indebtedness other than Indebtedness set forth on Schedule 4.21, or assumed, guaranteed or endorsed the indebtedness of any other Person, or canceled any debt owed to the Company or the Asset Seller, as applicable or released any claim possessed by the Company or the Asset Seller, as applicable, other than in the ordinary course of business;

(d) neither the Company nor the Asset Seller has suffered any theft, damage, destruction or loss (without regard to any insurance) of or to any tangible asset or assets having a value in excess of Twenty Five Thousand Dollars (\$25,000) individually or Fifty Thousand Dollars (\$50,000) in the aggregate;

(e) neither the Company nor the Asset Seller has (i) made, granted, or committed to make or grant: (A) any bonus or any wage, salary or compensation increase to any director, officer, employee, independent contractor or consultant, other than increases in the ordinary course of business, or (B) an increase of any benefit provided under any Business Plan (except in accordance with the terms of any Business Plan), (ii) adopted, amended or terminated any employee benefit plan, program or arrangement, or (iii) entered into, amended or terminated any employment agreement, deferred compensation arrangement, collective bargaining agreement or other similar arrangement with any of its managers, directors, officers, employees, independent contractors, consultants or stockholders;

(f) neither the Company nor the Asset Seller has sold, assigned or transferred, or committed to sell, assign or transfer, any tangible or intangible assets for an amount in excess of Twenty Five Thousand Dollars (\$25,000) individually or Fifty Thousand Dollars (\$50,000) in the aggregate, other than sales of inventory or pursuant to contracts with customers in the ordinary course of business;

(g) neither the Company nor the Asset Seller has purchased or leased, or committed to purchase or lease, any asset or group of related assets for an amount in excess of Twenty Five Thousand Dollars (\$25,000) individually or Fifty Thousand Dollars (\$50,000) in the aggregate, except for purchases of inventory and supplies in the ordinary course of business;

(h) neither the Company nor the Asset Seller has made any capital expenditures or commitment for capital expenditures in an amount more than Twenty Five Thousand Dollars (\$25,000) individually or Fifty Thousand Dollars (\$50,000) in the aggregate;

(i) neither the Company nor the Asset Seller has engaged in any transactions with, or entered into any Contract with, any Affiliate (including with the Company or the Asset Seller, as applicable);

(j) neither the Company nor the Asset Seller has (i) mortgaged, pledged or subjected to any Lien, other than Permitted Liens, any of its properties or assets or (ii) discharged or satisfied any Lien, except in the ordinary course of business;

(k) neither the Company nor the Asset Seller has entered into any Material Contract or amended, modified or terminated any existing Material Contract (other than a termination of a Material Contract as a result of the expiration of the term of such Material Contract);

(l) the Company has not made any loans, advances or capital contributions to, or investments in, any Person or paid any fees or expenses to any Affiliate (including to the Company or the Asset Seller, as applicable) or any employee, director or officer of the Company or the Asset Seller, as applicable, except with respect to payments and reimbursement of fees and expenses of, and compensation for, employees, directors and officers of the Company or the Asset Seller, as applicable in the ordinary course of business;

(m) neither the Company nor the Asset Seller has granted any license or sublicense of any rights under or with respect to any of the Business Owned Intellectual Property or Business Licensed Intellectual Property, except under an Outbound License or an Inbound License, or disposed of or abandoned any rights in, to or for the use of any of the Business Owned Intellectual Property or Business Licensed Intellectual Property;

(n) neither the Company nor the Asset Seller has instituted or settled any action, claim, suit or proceeding;

(o) neither the Company nor the Asset Seller has made any amendment to its respective Organizational Documents;

(p) neither the Company nor the Asset Seller has declared or paid any dividends or distributions or repurchased or redeemed any of its respective membership interests or other outstanding equity securities;

(q) neither the Company nor the Asset Seller has issued, granted or sold any shares of any class or other equity interests or options, warrants, calls, subscriptions or other rights to purchase any shares of any class or other equity interests of the Company or the Asset Seller, as applicable, or split, combined or subdivided equity interests of the Company or the Asset Seller, as applicable;

(r) neither the Company nor the Asset Seller has merged or consolidated with any corporation or other entity, or otherwise acquired any capital stock or business of, any Person, or consummated any business combination transaction, in each case, whether a single transaction or series of related transactions; and

(s) neither the Company nor the Asset Seller has agreed to take any of the actions described in subsections (a) through (r) above.

4.7 Taxes. Except as set forth on Schedule 4.7:

4.7.1 All Taxes due and payable by the Company or the Asset Seller, as applicable, or claimed or asserted by any Taxing Authority to be due and payable by the Company or the Asset Seller, as applicable (in each case, whether or not shown, or required to be shown, on any Tax Return), have been timely paid, other than Taxes which are not yet due or owing or that are being contested in good faith by appropriate proceedings, and for which, in each case, adequate reserves have been established in accordance with GAAP on the Acquisition Balance Sheets. All Tax Returns required to be filed by or on behalf of the Company or the Asset Seller, as applicable, in all jurisdictions in which such Tax Returns are required to be filed under applicable Law (after giving effect to any duly obtained extensions of time in which to make such filings) have been duly and timely filed and are true and complete in all respects.

4.7.2 There are no Tax claims, audits or proceedings pending or, To Sellers' Knowledge, threatened, in connection with the Company or the Asset Seller. Neither the Company nor any Seller has received from any Taxing Authority (including in jurisdictions where neither the Company nor the Asset Seller has filed Tax Returns), any (a) written notice indicating an intent to open an audit or other review, (b) request for information related to Tax matters, or (c) notice of deficiency or proposed adjustment for any amount of Tax proposed, asserted or assessed by any Taxing Authority against the Company or the Asset Seller, as applicable. No claim has been made by any Taxing Authority in a jurisdiction where the Company or the Asset Seller, as applicable, does not file Tax Returns that the Company or the Asset Seller, as applicable, is or may be subject to taxation by, or required to file any Tax Return in, that jurisdiction.

4.7.3 There are not currently in force any waivers or agreements binding upon the Company or the Asset Seller, as applicable, for the extension of time or statute of limitations within which to file any Tax Return or for the assessment, payment or collection of any Tax. Neither the Company nor the Asset Seller is a party to, or bound by, any Tax allocation or Tax sharing agreement (whether or not written) with any other Person and does not have any contractual obligation to indemnify any other Person with respect to Taxes. Neither the Company nor the Asset Seller has any liability for the Taxes of any Person under Section 1.1502-6 of the Treasury regulations (or any similar provision of state, local, or foreign Law) as a transferee or successor, by Contract or otherwise.

4.7.4 Each of the Company nor the Asset Seller has properly and timely withheld and paid all Taxes required to have been withheld and paid in connection with amounts paid or owing to any Person and has complied with the rules and regulations relating to the withholding and remittance of Taxes. All sales and use Taxes required to be collected and paid over by the Company and the Asset Seller have been properly collected and paid over to the relevant Taxing Authority.

4.7.5 The Company has not: (a) elected to defer the payment of any "applicable employment taxes" (as defined in Section 2302(d)(1) of the Coronavirus Aid, Relief, and Economic Security Act (the "CARES Act")) pursuant to CARES Act Section 2302; or (b) deferred any payment of Taxes (including withholding Taxes) pursuant to IRS Notice 2020-65 or any related or similar order or declaration from any Governmental Authority (including the Presidential Memorandum, dated August 8, 2020, issued by the President of the United States). The Company has, to the extent applicable, properly complied with all requirements of applicable Law and duly accounted for any available Tax credits under Sections 7001 through 7005 of the Families First Coronavirus Response Act and CARES Act Section 2301.

4.7.6 The unpaid Taxes of the Company or the Asset Seller, as applicable, (a) did not, as of the date of the Acquisition Balance Sheets, exceed the reserve for Tax liability (excluding any reserve for deferred Taxes established to reflect timing differences between book and Tax income) set forth on the face of the Acquisition Balance Sheets (rather than in any notes thereto); and (b) are not expected by the Company or the Asset Seller, as applicable, to exceed the aforementioned reserve as adjusted for the passage of time through the Closing Date in accordance with the past custom and practice of the Company or the Asset Seller, as applicable, in filing its Tax Returns. Since the date of the Acquisition Balance Sheets, neither the Company nor the Asset Seller has incurred any liability for Taxes arising from extraordinary gains or losses (as that term is used in GAAP), outside the ordinary course of business consistent with past practice.

4.7.7 The Company has not executed or entered into any written agreement with, or obtained or applied for any written consents or written clearances or any other Tax rulings from, nor has there been any written agreement executed or entered into on its behalf with, any Taxing Authority relating to Taxes, including any IRS private letter rulings or comparable rulings of any Taxing Authority and closing agreements pursuant to Section 7121 of the Code or any predecessor provision thereof or any similar provision of any Law.

4.7.8 The Company has not been a United States real property holding corporation within the meaning of Section 897(c)(2) of the Code during the applicable period specified in Section 897(c)(1)(A)(ii) of the Code.

4.7.9 The Company has disclosed on its federal income Tax Returns all positions taken therein that could give rise to a substantial understatement of federal income Tax within the meaning of Section 6662 of the Code or any comparable or similar provision of state, local, or foreign Law.

4.7.10 The Company will not be required to include any item of income in, or exclude any item of deduction from, taxable income for any Post-Closing Tax Period as a result of any:

- (a) change in accounting method for a Pre-Closing Tax Period;
- (b) “closing agreement” as described in Code Section 7121 or any predecessor provision thereof or any similar provision of any state, local, or foreign Law;
- (c) intercompany transaction or excess loss account described in the Treasury regulations under Code Section 1502 (or any corresponding or similar provision of state, local or foreign Law);
- (d) installment sale or open transaction disposition made on or prior to the Closing Date;
- (e) prepaid amount received on or prior to the Closing Date;
- (f) election under Code Section 965(h); or
- (g) deferral, advance refund, or other relief taken by the Company on or prior to the Closing Date pursuant to any provision of the CARES Act or any other pandemic-related Law with respect to Taxes.

4.7.11 The liabilities associated with any and all prior acquisition transactions were correctly accounted for Tax purposes by the Company.

4.7.12 The Company has not distributed stock of another Person, or had its equity distributed by another Person, in a transaction that was purported or intended to be governed in whole or in part by Section 355 or Section 361 of the Code.

4.7.13 The Company is not and has not been a party to any “reportable transaction,” as defined in Section 6707A(c)(1) of the Code and Section 1.6011-4(b) of the Treasury regulations or any corresponding or similar provision of state, local, or foreign Law.

4.7.14 There are no Liens for unpaid Taxes on either the Purchased Assets or the Company’s assets, except Permitted Liens.

4.7.15 The Company has made available to Buyer true, correct and complete copies of all Tax Returns and all examination reports and statements of deficiencies filed by, assessed against, or agreed to by the Company since December 31, 2016. The Asset Seller has made available to Buyer true, correct, and complete copies of all examination reports and statements of deficiencies filed by, assessed against, or agreed to by the Asset Seller since December 31, 2016.

4.7.16 All related party transactions involving or with respect to the Company or the Asset Seller have been on an arms’ length basis in accordance with Section 482 of the Code, or any state, local, or foreign Law equivalent.

4.7.17 The Company is not required, and has not been required, to make any adjustment pursuant to Section 481(a) of the Code (or any predecessor provision) or any similar provision of Law by reason of any change in any accounting methods, nor will be required to make such an adjustment as a result of the transactions contemplated by this Agreement or to include any item in taxable income post-Closing (or exclude any item of deduction or loss post-Closing) as a result of such section, any similar provision, or any change in accounting methods for Tax purposes, and there is no application pending with any Governmental Authority requesting permission for any changes in any of its accounting methods for Tax purposes. No Governmental Authority has proposed any such adjustment or change in accounting method.

4.7.18 Neither the Company nor the Asset Seller has had and does not have a permanent establishment in any foreign country, as defined in any applicable Tax treaty or convention between the United States and such foreign country.

4.7.19 Since its formation, the Company has been treated as a corporation for U.S. federal income Tax purposes.

4.7.20 The Company has been issued two grants of tax exemption, one under Act 20-2012 and other under Act 73-2008 in cases 15-20-S-204 and 15-73-I-039, respectively (“Act 20 Grant” and “Act 73 Grant,” collectively referred to as the “Grants”), to cover, under Act 20 Grant, the performance of eligible service activities for markets outside of Puerto Rico of consulting services related to the manufacturing process; and Professional services such as accounting and bookkeeping services and, under Act 73 Grant, dies casting, CNC machining and anodizing. The Grants are in full force and effect, and the Company is in compliance with all the terms and conditions thereunder, and with the applicable statutory and regulatory provisions of the Acts under which they were issued.

4.8 Employees.

4.8.1 Except as set forth on Schedule 4.8.1, there are no, and in the past three (3) years there have been no, pending or, To Sellers’ Knowledge, threatened claims by any employee or former employee of the Company or the Asset Seller, as applicable, with respect to his or her employment, termination of employment, compensation or benefits (other than routine claims for benefits under the Business Plans in the ordinary course). Neither the Company nor the Asset Seller has been and is not a party to, or bound by, any collective bargaining agreement with any labor organization, nor is there currently or has there been in the past three (3) years, any pending or, To Sellers’ Knowledge, threatened, union organizational activities or proceedings with respect to employees of the Company or the Asset Seller. Schedule 4.8.1 sets forth a complete list of all employees of the Company or the Asset Seller, including their dates of hire, accrued vacation, and compensation. No labor strike, slowdown or stoppage is pending or, To Sellers’ Knowledge, threatened against the Company or the Asset Seller. Each of the Company nor the Asset Seller has been at all times in compliance in all material respects with all Laws relating to the employment of labor, including all such Laws relating to wages, hours, the WARN Act or similar foreign Law, collective bargaining, discrimination, civil rights, safety and health and workers’ compensation, engagement of independent contractors (including the classification of individuals as employees or independent contractors) and the withholding and payment of income and employment taxes any similar Tax. There has been no “mass layoff” or “plant closing” as defined by the WARN Act or any similar layoff or closing as defined by any foreign Law with respect to the Company or the Asset Seller. To Sellers’ Knowledge, no executive or key employee of the Company or of the Asset Seller has any present intention to terminate his or her employment with the Company or the Asset Seller, as applicable.

4.8.2 Each of the Company and the Asset Seller have completed and maintain in its respective files Forms I-9 with respect to each of its respective employees. In the past five (5) years, neither the Company nor the Asset Seller has received any written notice from any Governmental Authority that any of its employees has a name or Social Security Number that does not match the name or Social Security Number maintained by such Governmental Authority. All employees of the Company or the Asset Seller working in the United States are legally authorized to work in the United States.

4.9 Employee Benefit Plans and Other Compensation Arrangements. Set forth on Schedule 4.9(a) is a true and complete list of all Business Plans. True and complete copies of the following documents with respect to each Business Plan have been made available to Buyer, as applicable: (a) plans and related trust documents, insurance contracts or other funding arrangements and all amendments thereto, (b) the Forms 5500 and all schedules thereto for the most recent three (3) years, (c) the most recent valuation report, including any FAS 106 report; (d) the most recent IRS determination or opinion letter, (e) the most recent summary plan description and subsequent summaries of material modifications, (f) the most recent financial statements, and (g) written summaries of all material terms of unwritten Business Plans. Except as set forth on Schedule 4.9(b):

(a) the Company nor the Asset Seller nor any ERISA Affiliate has sponsored, maintained, been liable under, terminated, participated in, been required to contribute to, or incurred withdrawal liability with respect of, a “multiemployer plan” (within the meaning of Sections 3(37) or 4001(a)(3) of ERISA) or a plan subject to Section 412 of the Code or Section 302 or Title IV of ERISA, and the Company nor the Asset Seller nor any ERISA Affiliate has any accumulated funding deficiency (within the meaning of Section 302(a)(2) of ERISA and Section 412(a) the Code), whether or not waived, with respect to any such plan;

(b) the Business Plans and any related trusts currently satisfy, and for all prior periods have satisfied, in all material respects, in form and operation, all requirements for any Tax-favored treatment intended for such plan or trust or applicable to plans or trusts of its type, and no event, transaction or condition has occurred or exists that is reasonably likely to result in the loss or limitation of such Tax-favored treatment;

(c) all of the Business Plans have been operated in compliance in all material respects with their respective terms and all applicable Laws;

(d) neither the Company nor the Asset Seller has any liability of any nature (whether known or unknown and whether absolute, accrued, contingent or otherwise) with respect to any Plan other than for contributions, payments or benefits due in the ordinary course under the terms of such Plan, none of which are overdue;

(e) neither the execution and delivery of this Agreement nor the consummation of the transactions contemplated hereby will now or at any time in the future (i) result in any payment becoming due to any director, officer, employee, former employee, independent contractor or consultant of the Company or the Asset Seller from the Company or the Asset Seller under any Business Plan or otherwise, (ii) increase any benefits otherwise payable under any Business Plan, or (iii) result in any acceleration of the time of payment or vesting of any such benefits;

(f) none of the Business Plans provide life, medical, dental, vision or other welfare coverage to Persons who are not current employees of the Company or the Asset Seller or their dependents or for periods extending beyond the last day of the month of termination of employment, except as required by Part 6 of Title I of ERISA, Section 4980B of the Code, or any similar state or local Law;

(g) each of the Company nor the Asset Seller has retained the right to unilaterally amend or terminate each Business Plan to the fullest extent permitted by Law; and

(h) each Business Plan which is a “nonqualified deferred compensation plan” within the meaning of Section 409A(d)(1) of the Code (or which would be but for an exemption) has been maintained and administered in all material respects with Section 409A of the Code, and no options or rights to purchase equity of the Company or the Asset Seller provide for (or provided for) a deferral of compensation (as contemplated under Section 1.409A-1(b)(i) of the Treasury Regulations).

4.10 Environmental Matters. Except as set forth on Schedule 4.10:

4.10.1 Each of the Company and the Asset Seller has at all times been in compliance in all material respects with all applicable Environmental Laws. Without limiting the foregoing, each of the Company or the Asset Seller: (a) has timely obtained, and is and has been in compliance in all material respects with, all Permits required under Environmental Law for the ownership, lease, operation or use of the business or assets of the Company or the Asset Seller; and (b) has prepared and timely filed with the appropriate jurisdictions all reports, data, documentation and filings required pursuant to any Environmental Law.

4.10.2 There has been no generation, Treatment, Storage, Disposal or transport of any regulated amount of Hazardous Material by the Company or the Asset Seller or, To Sellers’ Knowledge, any other Person, at, on, under, or from any of the Leased Real Property or any other property occupied or used by the Company or the Asset Seller.

4.10.3 To Sellers’ Knowledge, there are not any asbestos- or urea formaldehyde-containing materials incorporated into or used on the buildings or any improvements that are a part of the Leased Real Property or into other assets of the Company or the Asset Seller.

4.10.4 Neither the Company nor the Asset Seller has sent any Hazardous Material to a site that, pursuant to any Environmental Law: (a) has been placed or proposed for placement on the National Priorities List or any similar state list, or (b) is subject to or the source of an Order, demand or request from a Governmental Authority to take any Removal, Remedial or Response action or to pay for the costs of any such action at any location.

4.10.5 Neither the Company nor the Asset Seller has received any notice, Order, demand, inquiry, summons, complaint, directive, warning, request for information, notice of violation or other communication (“Environmental Notice”) in writing from any Governmental Authority, citizens’ group, employee or other Person, nor is the Company or the Asset Seller aware of any other Environmental Notice, in each case claiming that it or its business is or may be liable for: (a) any actual or alleged violation of or noncompliance with any Environmental Law; (b) any actual or alleged obligation to undertake or bear the cost of any liabilities under any Environmental Law with respect to the Leased Real Property or any property or facility at or to which any Hazardous Material generated, manufactured, Stored, handled, imported, used or processed by the Company has been transported, Treated, Stored, transferred, Disposed, recycled or received; or (c) any personal injury or property damage related to any Release, Treatment, Storage or Disposal of, or exposure to, any Hazardous Material.

4.10.6 To Sellers' Knowledge, There are and have been no underground storage tanks or related piping, landfills, surface impoundments, sumps, septic systems, waste disposal areas, wastewater treatment systems, radioactive materials, underground injection wells or monitoring wells located on, under or at any of the Leased Real Property, nor have any such structures or materials been removed from any of the Leased Real Property except in accordance with applicable Environmental Law.

4.10.7 There has been no Release or Disposal of any Hazardous Material by the Company or Asset Seller or, To Sellers' Knowledge, at, on, under or from the Leased Real Property or any other property or facility owned or leased by the Company or the Asset Seller in an amount or concentration that would reasonably be expected to require the Company or the Asset Seller to perform any notification, investigation, assessment, clean-up, Removal, Response, corrective or any other Remedial action or to pay for the cost of any such action under any Environmental Law.

4.11 Permits; Compliance with Laws. Except as set forth on Schedule 4.11(a), each of the Company and the Asset Seller has at all times been in compliance in all material respects with all applicable Laws and Orders, and each of the Company or the Asset Seller possesses and each of the Company or the Asset Seller is and has at all times been in compliance in all material respects with, all licenses, permits, registrations, certificates of occupancy, approvals, authorizations, qualifications, consents and certificates from any Governmental Authority which are required under applicable Law with respect to the operation of its business as currently conducted (collectively, "Permits"). Each Permit listed on Schedule 4.11(b) is valid and in full force and effect. Except as set forth on Schedule 4.11(c), in the past three (3) years, neither the Company nor any of the Sellers have received any written notice from any Person alleging any noncompliance with any applicable Law, Order or Permit by the Company or the Asset Seller. Each Permit is valid and in full force and effect, and none of the Permits will lapse, terminate, expire or otherwise be impaired (as they relate to the right or authorization of the Company or the Asset Seller) as a result of the consummation of the transactions contemplated herein. Neither the Company, Sellers, nor, To Sellers' Knowledge, any of their respective managers, directors, officers, executives, representatives, agents or employees, (a) has used or is currently using any funds of the Company or the Asset Seller for any illegal contributions, gifts, entertainment or other unlawful expenses relating to political activity, (b) has used or is currently using any funds of the Company or the Asset Seller for any direct or indirect unlawful payments to any foreign or domestic government officials or employees applicable to the Sellers or the Company, (c) has violated or is violating any provision of the United States Foreign Corrupt Practices Act of 1977, as amended or any similar law under any jurisdiction, (d) has established or maintained, or is maintaining, any unlawful fund of monies or other properties of the Company or the Asset Seller, (e) has made any bribe, unlawful rebate, payoff, influence payment, kickback or other unlawful payment of any nature or (f) has violated any anti-boycott provisions of any applicable Law or other applicable Law relating to exports and embargos.

4.12 Real and Personal Properties; Sufficiency of Assets.

4.12.1 Real Property.

- (a) Neither the Company nor the Asset Seller owns any real property.

(b) Schedule 4.12.1(b) identifies the Leased Real Property and lists the leases relating to such Leased Real Property, whether written or oral (the “Leases”). Each of the Company and the Asset Seller has a valid and subsisting leasehold estate and the right to quiet enjoyment of the applicable portion of the Leased Real Property. With respect to each Lease: (a) such Lease is in full force and effect and all rents, required deposits and additional rents due to date pursuant to such Lease have been paid in full, (b) there is no existing default by the Company or the Asset Seller or, To Sellers’ Knowledge, by the lessor of such Lease, (c) neither the Company nor the Asset Seller has received any notice that it is in default under such Lease, (d) neither the Company nor the Asset Seller has received any notice that the owner of the applicable Leased Real Property has made any assignment, mortgage, pledge or hypothecation of such Lease or the rents or use fees due thereunder, and (e) To Sellers’ Knowledge, there exists no event, occurrence, condition or act (including the transactions contemplated by this Agreement), that with the giving of notice, the lapse of time or the happening of any further event or condition, would constitute a default by the Company or the Asset Seller under such Lease. The Leases provided to Buyer and identified on Schedule 4.12.1(b) are all of the leases and rental agreements, together with all amendments, that constitute the Leased Real Property, and no Leases have been amended, modified or terminated other than amendments or modifications provided to Buyer and identified on Schedule 4.12.1(b).

(c) Neither the whole nor any portion of the Leased Real Property has been condemned, requisitioned, or otherwise taken by any public authority, and no written notice of any such condemnation, requisition, or taking has been received by the Company or the Asset Seller. To Sellers’ Knowledge, no such condemnation, requisition, or taking is threatened or contemplated. To Sellers’ Knowledge, there are no public improvements proposed or in progress that will result in special assessments against or otherwise adversely affect any of the Leased Real Property. Neither the Company nor any of the Sellers have been notified in writing of future improvements by any public authority, any part of the cost of which would or might be asserted against the Company or the Asset Seller.

(d) To Sellers’ Knowledge, the Leased Real Property is in compliance in all material respects with all applicable Laws. The zoning of each parcel of the Leased Real Property permits the existing improvements and uses of the Company or the Asset Seller, subject to no variances, conditional use permits or other special use restrictions.

(e) Except as set forth on Schedule 4.12.1(e), each of the buildings, structures, improvements and systems situated or located on the Leased Real Property is in good condition and repair, reasonable wear and tear excepted, and contains no material structural defects. None of the buildings, structures or improvements situated on the Leased Real Property, during the period of time during which such Leased Real Property has been leased by the Company or the Asset Seller, has been damaged by fire or other casualty, except for such damage as has been fully repaired and restored. To Sellers’ Knowledge, each of the buildings, structures and improvements situated on the Leased Real Property are located within the required set back, side yard and other conditions and requirements imposed by applicable Law with respect to such buildings, structures and improvements.

(f) To Seller’s Knowledge all utilities are separately metered within each Leased Real Property. All of the streets, roads and avenues adjoining or adjacent to the Leased Real Property are publicly owned and maintained without assessment or charge to the Company or the Asset Seller.

(g) To Sellers’ Knowledge, no Leased Real Property is subject to any options, purchase or sale contracts, leases or rights of occupancy or other agreements not otherwise identified in this Agreement.

4.12.2 Personal Property. Each of the Company and the Asset Seller has good and marketable title to, or a valid leasehold interest in, each of the items of tangible personal property reflected on its respective Acquisition Balance Sheets or acquired thereafter (except for assets reflected thereon or acquired thereafter that have been disposed of in the ordinary course of business since the date of their respective Acquisition Balance Sheets), free and clear of all Liens (except for Permitted Liens). Such tangible personal property is free from material defects and is in good operating condition and repair, reasonable wear and tear excepted. Except for the personal property leases indicated on Schedule 4.12.2, no Person, other than the Company or the Asset Seller owns or utilizes any material tangible personal property used by the Company or the Asset Seller in the operation of its business. Except as indicated on Schedule 4.12.2, the assets (tangible and intangible, real and personal) owned, licensed and leased by the Company or the Asset Seller are sufficient for the Company or the Asset Seller, as applicable, to conduct its respective business as heretofore conducted. Except as set forth on Schedule 4.12.2, the tangible assets owned and leased by the Company or the Asset Seller are located at the Leased Real Property.

4.13 Accounts Receivable. The accounts receivable of the Company and the Asset Seller reflected on each Acquisition Balance Sheet and the Accounts Receivable arising after the date of such Acquisition Balance Sheet and reflected on the books and records of the Company or the Asset Seller, as applicable, other than any accounts receivable owed to the Company or the Asset Seller, as applicable by the Interest Sellers or any other Affiliate of the Company or the Asset Seller, as applicable, (a) represent bona fide and valid accounts receivable arising from sales actually made or services actually performed, and (b) except as set forth on Schedule 4.13, will be collected by the Company or the Asset Seller, as applicable, within ninety (90) days following the Closing Date (net of any reserves included on the Final Adjustment Statement). The accounts receivable reflected on each Acquisition Balance Sheet are stated thereon in accordance with, as applicable, the Company's or the Asset Seller's past practices, consistently applied, including allowances for doubtful accounts. Except as set forth on Schedule 4.13, no customer of either the Company and the Asset Seller has, and neither the Company nor the Asset Seller has permitted any customer to have, any rebates, volume discounts, mark-downs, rights of contest, claim or setoff with respect to their accounts receivable.

4.14 Inventories. The inventories of the Company or the Asset Seller, as applicable, are of a quantity and quality usable and saleable in the ordinary course of business consistent with past practice, except to the extent of the reserve reflected on the Final Adjustment Statement. The inventories on each Acquisition Balance Sheet and inventories arising after the date of such Acquisition Balance Sheet and reflected on the books and records of the Company or the Asset Seller, as applicable, are stated thereon in accordance with GAAP, consistently applied.

4.15 Intellectual Properties. Schedule 4.15(a) sets forth a complete and correct list of all patented or registered Business Owned Intellectual Property and pending patent applications or other applications for registration of Business Owned Intellectual Property, Internet domain names and material unregistered Marks, Copyrights and software included in the Business Owned Intellectual Property. Schedule 4.15(b) sets forth all agreements under which the Company or the Asset Seller grants to a third-party any license to any Business Owned Intellectual Property (the "Outbound Licenses"). Schedule 4.15(c) sets forth a complete and correct list of all Business Licensed Intellectual Property, and identifies the licensor of such Business Licensed Intellectual Property. Schedule 4.15(d) sets forth all agreements under which the Company or the Asset Seller receives any license to any Business Licensed Intellectual Property (the "Inbound Licenses"). All fees due as of the date hereof associated with maintaining any registered Intellectual Property have been paid in full in a timely manner to the proper Governmental Authority, and all filings required as of the date hereof associated with maintaining any registered Business Owned Intellectual Property have been made, and, except as listed on Schedule 4.15(a), no such fees are due and no such filings are required prior to December 31, 2021. Except as set forth on Schedule 4.15(e):

(a) the Company or the Asset Seller, as applicable, owns and possesses all, right, title and interest in and to the Business Owned Intellectual Property as currently being used by the Company or the Asset Seller, as applicable,;

(b) the Company or the Asset Seller, as applicable, owns and possesses a valid and enforceable right or license to use the Business Licensed Intellectual Property as currently being used by the Company or the Asset Seller, as applicable,;

(c) the Business Owned Intellectual Property is not subject to any Liens and is not subject to any restrictions or limitations regarding use or disclosure, other than pursuant to Law or a written Outbound License applicable thereto;

(d) (i) the issued Patents and registered Intellectual Property, and the applications therefor, included among the Business Owned Intellectual Property are subsisting, in full force and effect, and have not been cancelled, expired or abandoned; (ii) neither the Company nor the Asset Seller has abandoned, cancelled, or permitted to be abandoned, cancelled, or lapsed, any issued Patents or registered Intellectual Property, or the applications therefor, that are currently included among the Business Owned Intellectual Property, nor have there been any interference actions, re-examinations, cancellation proceedings, or other judicial, arbitration, or other adversarial proceedings with respect to any such Business Owned Intellectual Property during the past five (5) years;

(e) except pursuant to an Outbound License set forth on Schedule 4.15(b), neither the Company nor the Asset Seller has licensed or otherwise granted any right to any Person under any Business Owned Intellectual Property;

(f) (i) neither the Company nor the Asset Seller has infringed, misappropriated or otherwise conflicted with any Intellectual Property of any third-party; (ii) the conduct of its respective business as currently conducted by the Company or the Asset Seller, as applicable, does not infringe upon, misappropriate, or otherwise conflict with, any Trademark, Patent or other Intellectual Property owned or controlled by any third-party; and (iii) neither the Company nor the Asset Seller has received in the last five (5) years any notice regarding, and there are currently no actions, suits, arbitrations, judgments, proceedings, investigations or claims of any kind whatsoever related to any of the foregoing (including, without limitation, any written demands or offers to license any Intellectual Property from any third-party, and any written claims asserting the invalidity, misuse or unenforceability of any Business Owned Intellectual Property now or formerly owned by the Company or the Asset Seller);

(g) (i) To Sellers' Knowledge, no third-party (including any employee of the Company or the Asset Seller) has infringed, misappropriated or otherwise conflicted with the Business Owned Intellectual Property; and (ii) no such claims have been brought or threatened against any third-party by the Company or the Asset Seller (including, without limitation, any demands or offers to license any Business Owned Intellectual Property now or formerly owned by the Company or the Asset Seller);

(h) all royalties and other fees owed by the Company or the Asset Seller pursuant to the Inbound Licenses have been paid in full or will be properly accrued for in accordance with GAAP on the Final Adjustment Statement;

(i) during the past five (5) years, (i) none of the Business Owned Intellectual Property has been used, divulged or appropriated for the benefit of any past or present employee of the Company or the Asset Seller or any other Person, or to the detriment of the Company or the Asset Seller; (ii) each former employee and each current employee of the Company or the Asset Seller who has access to any trade secrets of either the Company or the Asset Seller has executed a confidentiality agreement in favor of the Company or the Asset Seller, as applicable; and (iii) each of the Company nor the Asset Seller has taken commercially reasonable precautions to protect the secrecy and value of its Trade Secrets;

(j) during the past five (5) years, To Sellers' Knowledge, no employee of either the Company or the Asset Seller has entered into any Contract that restricts or limits in any material way the scope or type of work in which the employee may be engaged or requires the employee to transfer, assign or disclose information concerning work resulting from such employee's service to the Company or the Asset Seller, as applicable, to anyone other than the Company or the Asset Seller, as applicable; and To Sellers' Knowledge, no employee of the Company or the Asset Seller, as applicable, is, or is currently expected to be, in default under any term of any such Contract;

(k) neither the Company nor the Asset Seller has any obligation to indemnify, hold harmless, or defend any third-party in connection with claims for intellectual property infringement or misappropriation; and

(l) all software included in the Business Owned Intellectual Property or used by the Company that has not been licensed from another person pursuant to a written license agreement (collectively, the "Business Software") was either: (i) developed by employees of the Company or the Asset Seller, as applicable, within the scope of their employment as a work for hire or by employees who have assigned (and provided waivers of all moral rights) to the Company or the Asset Seller, as applicable, all of their rights thereto; (ii) developed by independent contractors who have assigned their rights to the Business Software to the Company or the Asset Seller, as applicable, pursuant to written agreements; or (iii) otherwise acquired by the Company or the Asset Seller, as applicable, from a third party who expressly assigned all of their Intellectual Property rights in the Business Software to the Company or the Asset Seller. Such Business Software does not contain any programming code, documentation or other materials or development environments that embody Intellectual Property rights of any person other than the Company or the Asset Seller, except for such programming code, documentation or other materials or development environments obtained by the Company or the Asset Seller from other persons who make such programming code, documentation or other materials or development environments generally commercially available. No Business Software is subject to the terms of any "open source," "copyleft," or other similar license or distribution models that would require the Company or the Asset Seller to make the source code of that Business Software publicly available.

4.16 Contracts.

(a) Schedule 4.16(a) lists all of the written or oral agreements, contracts, leases, purchase and sales orders, commitments, arrangements, letters of understanding or undertakings to which the Company or the Asset Seller is now a party or by which any assets of the Company or the Asset Seller are now bound or are subject (collectively, "Contracts") that fall into any of the following categories:

(i) Contracts or group of related Contracts which involve commitments to make capital expenditures or which provide for the purchase of goods or services by the Company or the Asset Seller from any one Person or group of related Persons under which the annual value of such goods or services purchased thereunder has an aggregate purchase price in excess of Twenty Five Thousand Dollars (\$25,000);

(ii) Contracts or group of related Contracts which provide for the sale of goods or services by the Company or the Asset Seller to any one Person or group of related Persons under which the annual value of such goods or services sold thereunder has an aggregate sale price in excess of Twenty Five Thousand Dollars (\$25,000);

- (iii) Contracts relating to Indebtedness or to the granting by the Company or the Asset Seller of a Lien on its assets, or any guaranty by the Company of any obligation in respect of borrowed money or otherwise;
- (iv) Contracts with dealers, distributors or sales representatives;
- (v) currently binding employment Contracts with any employee, officer, consultant or management advisor (other than offer letters offering employment on an at-will basis and containing no other employment terms);
- (vi) Contracts which limit the freedom of the Company or the Asset Seller to engage in any business or compete with any Person;
- (vii) Contracts pursuant to which the Company or the Asset Seller is a lessor or a lessee of any personal or real property (other than the Leases), or holds or operates any tangible personal property owned by another Person, except for any such individual lease under which the aggregate annual rent or lease payments do not exceed Ten Thousand Dollars (\$10,000);
- (viii) equity option Contracts, warrants, convertible securities, or any other agreements for the purchase or issuance of equity of the Company or the Asset Seller;
- (ix) Contracts restricting the transfer of equity of the Company or the Asset Seller, obligating the Company or the Asset Seller to issue or repurchase its equity, or relating to the equity or the election of directors of the Company or the Asset Seller;
- (x) each partnership or joint venture Contract;
- (xi) each Contract not included in subsection (e) providing for severance, retention, change in control or other similar payments;
- (xii) each Contract with a Seller or any Affiliate of a Seller or any current or former officer, director, stockholder or Affiliate of the Company or the Asset Seller;
- (xiii) Contracts under which either the Company or the Asset Seller has made advances or loans to any other Person;
- (xiv) each Contract containing a "most-favored nation" pricing agreement, special warranties, rebate arrangements, mark-down arrangements, penalty provisions related to nonperformance of service requirements, agreements to take back or exchange goods, consignment arrangements or similar understandings with a customer or supplier of the Company or the Asset Seller;
- (xv) Contracts by and between the Company or the Asset Seller and a Governmental Authority; and
- (xvi) any other Contract that requires the Company or the Asset Seller to make payments in excess of Twenty-Five Thousand Dollars (\$25,000) and is not terminable by the Company or the Asset Seller without penalty upon less than ninety (90) days' prior written notice.

(b) Complete copies of each Contract required to be identified on Schedule 4.16(a), including amendments, waivers, or other changes thereto (collectively, the “Material Contracts”), have been provided to Buyer. In the case of each oral Material Contract, Schedule 4.16(a) also includes a brief description of such oral Contract. Each Material Contract is legally valid and binding on and enforceable by the Company or the Asset Seller, and, To Sellers’ Knowledge, the other party thereto, in each case without breaching the terms thereof or resulting in the forfeiture or impairment of any rights thereunder. Except as set forth on Schedule 4.16(b), each of the Company nor the Asset Seller has performed all obligations required to be performed by it pursuant to each Material Contract, and neither the Company nor the Asset Seller is in breach or default thereunder (and, To Sellers’ Knowledge, no event has occurred that, with the giving of notice, lapse of time, or both, would constitute a breach or default), and, To Sellers’ Knowledge, no other party to any Material Contract is in breach or default thereunder. Each of the Material Contracts will remain in full force and effect immediately upon the consummation of the transactions contemplated by this Agreement. Except as set forth on Schedule 4.16(b), neither the Company nor the Asset Seller has received any notice of any Person’s intent to terminate or materially amend any Material Contract. Neither the Company nor the Asset Seller has amended, canceled, terminated, relinquished, waived or released any Material Contract or right thereunder, except in the ordinary course of business and which, in the aggregate, would not be material to the Company or the Asset Seller.

4.17 Litigation. Except as set forth on Schedule 4.17, there are no, and in the past three (3) years there have been no, actions, suits, arbitrations, judgments, proceedings, investigations or claims of any kind whatsoever, at Law or in equity, pending or, To Sellers’ Knowledge, threatened, against the Company or the Asset Seller or that would prohibit the Sellers or Company from consummating the transactions contemplated hereunder. Except as set forth on Schedule 4.17, neither the Company nor the Asset Seller is a party or subject to any order, judgment, ruling, injunction, assessment, award, decree or writ from any Governmental Authority (each, an “Order”).

4.18 Product and Service Warranties; Product Liability.

(a) Except as set forth on Schedule 4.18(a), in the past five (5) years, there have been no product warranty or service warranty claims in excess of Ten Thousand Dollars (\$10,000) made against the Company or the Asset Seller alleging that any products supplied, assembled, packaged, manufactured, distributed, sold or leased by or on behalf of the Company or the Asset Seller are defective or improperly designed or manufactured, and no such claims are currently pending or, To Sellers’ Knowledge, threatened against the Company or the Asset Seller. Except as set forth on Schedule 4.18(a), there have been no product recalls by the Company or the Asset Seller in the past five (5) years. The Company’s and the Asset Seller’s standard terms and conditions of sale (containing applicable guaranty, warranty and indemnity provisions) are attached to Schedule 4.18(a), and, except for such standard terms and conditions, neither the Company nor the Asset Seller has given a condition, warranty, indemnity or made a representation in respect of products or services supplied, assembled, packaged, manufactured, distributed, sold or leased by or on behalf of the Company or the Asset Seller, as applicable. Each product supplied, assembled, packaged, manufactured, distributed, sold or leased by or on behalf of the Company or the Asset Seller has been in conformity with all applicable contractual commitments and all express and implied warranties. Except as set forth on Schedule 4.18(a), or for warranty claims based on the Company’s and the Asset Seller’s standard terms and conditions of sale, neither the Company nor the Asset Seller has any liability (and, To Sellers’ Knowledge, there is no basis for any present or future action, suit, proceeding, hearing, investigation, charge, complaint, claim, or demand against the Company or the Asset Seller giving rise to any liability) for replacement or repair of any product supplied, assembled, packaged, manufactured, distributed, sold or leased by or on behalf of the Company or the Asset Seller or other damages in connection therewith.

(b) Except as set forth on Schedule 4.18(b), no claims alleging bodily injury or property damage as a result of any defect in the design or manufacture of any product or the breach of any duty to warn, test, inspect or instruct of dangers therein (each a “Product Liability Claim”) have been made in the past five (5) years, are currently pending or, To Sellers’ Knowledge, threatened against the Company or the Asset Seller. There are no defects in the design or manufacture of products supplied, assembled, packaged, manufactured, distributed, sold or leased by or on behalf of the Company which could result in a Product Liability Claim, and there has not been any failure by the Company or the Asset Seller to warn, test, inspect or instruct of dangers which could form the basis for a product recall or any Product Liability Claim against the Company or the Asset Seller.

4.19 Customers and Suppliers. Schedule 4.19 sets forth the ten (10) largest customers (the “Material Customers”) and the ten (10) largest suppliers (the “Material Suppliers”) of each of the Company or the Asset Seller (and the dollar volumes related thereto), in each case for the twelve (12)-month periods ended December 31, 2019 and December 31, 2020. In the past twelve (12) months, except as set forth on Schedule 4.19, no Material Customer has (a) canceled or otherwise terminated or, To Sellers’ Knowledge, given any notice of termination, made any threats to cancel or otherwise terminate, its relationship with the Company or the Asset Seller, (b) materially decreased or, To Sellers’ Knowledge, threatened to materially decrease, its purchases from the Company or the Asset Seller, or (c) changed or, To Sellers’ Knowledge, threatened to change, its payment or pricing terms with respect to the Company or the Asset Seller or otherwise materially and adversely alter its current agreements, programs or commitments with the Company or the Asset Seller. In the past twelve (12) months, no Material Supplier has (i) canceled or otherwise terminated or, To Sellers’ Knowledge, made any threats to cancel or otherwise terminate, its relationship with the Company or the Asset Seller, (ii) materially decreased or, To Sellers’ Knowledge, threatened to materially decrease, its sales of supplies to the Company or the Asset Seller, or (iii) materially raised or, To Sellers’ Knowledge, threatened to materially raise, its prices to the Company or the Asset Seller or otherwise materially and adversely alter its current agreements, programs or commitments with the Company or the Asset Seller. Neither the Company nor the Asset Seller has experienced, and, To Sellers’ Knowledge, there do not exist, any material quality control or similar problems with the products currently being supplied or on order from the Material Suppliers.

4.20 Insurance. Schedule 4.20(a) contains an accurate and complete list of (a) all insurance policies owned, held by or applicable to the Company or the Asset Seller (or its assets or business), and (b) all self-insured, retained limit, deductible or co-insurance programs. All such policies are in full force and effect, all premiums due and payable with respect thereto have been paid, and no written notice of denial of coverage, cancellation or termination has been received with respect to such policies. Such policies are valid, outstanding and enforceable policies and shall be in effect until the time of Closing and the applicable limits under such policies have not been exhausted. To Sellers’ Knowledge, in the past twelve (12) months, no event specific to the Company or the Asset Seller has occurred which could reasonably be expected to result in a material retroactive upward adjustment in premiums under any such insurance policies or which could reasonably be expected to result in a material prospective upward adjustment in such premiums. Neither the Company nor the Sellers has received notice of cancellation of any such insurance policies in the last five (5) years, and, To Sellers’ Knowledge, no threat has been made to cancel any insurance policy which covers the Company or the Asset Seller, as applicable during such period. Schedule 4.20(b) sets forth a list of all pending claims made by the Company or the Asset Seller under its insurance policies and all past claims submitted to its insurance carriers in the past five (5) years. All claims subject to a retained amount, self-insurance or deductible clause or agreement contained in any policy listed in Schedule 4.20(a) or other policy issued which covers the Company or the Asset Seller (or their respective assets or business) during the past five (5) years have either been (i) paid or closed prior to Closing or (ii) reserved for the full amount that such claim will be paid or closed following the Closing. During the past five (5) years, there have been no gaps in the insurance coverage of the Company or the Asset Seller.

4.21 Indebtedness. Schedule 4.21 sets forth a listing of all Indebtedness of the Company or the Asset Seller (including the amount) and the Contracts under which such Indebtedness exists.

4.22 Books and Records. All books and records of the Company or the Asset Seller, as applicable, are accurate and complete in all material respects. The equity record books and equity transfer ledgers of the Company or the Asset Seller, as applicable, are correct and complete and have been made available to Buyer. All equity transfer taxes levied, if any, or payable with respect to all transfers of equity of the Company or the Asset Seller, as applicable, prior to the date hereof have been paid and appropriate transfer tax stamps affixed.

4.23 Related Party Transactions. Except as set forth on Schedule 4.23, no stockholder (including, without limitation, the Sellers), employee, officer, or director of the Company or the Asset Seller or, To Sellers' Knowledge, any member of his or her immediate family, or any Affiliate of the Company or the Asset Seller (each an "Business Related Person"): (a) owes any amount to the Company or the Asset Seller nor does the Company or the Asset Seller owe any amount to, or has the Company or the Asset Seller committed to make any loan or extend or guarantee credit to or for the benefit of any Business Related Person (other than any participant loans under any Business Plan and any payments to, and reimbursement of fees and expenses of, employees, officers and directors of the Company or the Asset Seller in the ordinary course of business), (b) owns any property or right, tangible or intangible, that is used by the Company, (c) has any claim or cause of action against the Company or the Asset Seller, other than claims for accrued compensation or benefits arising in the ordinary course of employment or under any Business Plans, or (d) has any ownership interest in, directly or indirectly, any customer, supplier or licensor of the Company (other than the ownership of up to (but not more than) three percent (3%) of any class of securities of any such customer, supplier or licensor if such securities are listed on any national or regional securities exchange or have been registered under Section 12(g) of the Exchange Act).

4.24 Capital Expenditures. Schedule 4.24 sets forth each capital expenditure commitment of each of the Company and the Asset Seller for the fiscal year ended December 31, 2021, and any outstanding balance of each such commitment.

4.25 Brokerage. Except as set forth in Schedule 4.25, no Person is or will become entitled, by reason of any agreement or arrangement entered into or made by or on behalf of the Company or the Asset Seller, to receive any commission, brokerage, finder's fee or other similar compensation in connection with the consummation of the transactions contemplated by this Agreement.

4.26 Sanctions and Export Controls.

(a) Neither the Company, nor the Sellers, nor any of the officers, managers, employees, agents or other representatives acting on behalf of or on the express, implied or apparent authority of the Company or any of the Sellers, is a Person that is, or is owned or controlled by Persons that (i) are the target of any sanctions administered or enforced by the U.S. Department of the Treasury's Office of Foreign Assets Control, the U.S. Department of State, the United Nations Security Council, the European Union, Her Majesty's Treasury in the United Kingdom, or any other relevant sanctions authority (collectively, "Sanctions"), (ii) are the target of any export controls administered or enforced by the U.S. Department of Commerce, U.S. Department of State, or any other applicable export controls authority (collectively, "Export Controls"), (iii) are located, organized, or resident in a country or territory that is the target of country- or territory-wide Sanctions (including, as of the date of this Agreement, Cuba, Iran, North Korea, Syria, and the Crimea region of Ukraine) (hereinafter each, a "Sanctioned Country"), (iv) have engaged or are currently engaged in any dealings or transactions with Persons subject to Sanctions or Export Controls, or (v) are otherwise in violation of any Sanctions or Export Controls.

(b) The Company nor the Asset Seller nor any of their respective officers, managers, employees, agents or other representatives acting on behalf of or on the express, implied or apparent authority of the Company or the Asset Seller is or has been in the past five (5) years in violation of any Sanctions or Export Controls or is engaged in any activity that would reasonably be expected to result in the Company or the Asset Seller being designated as a target of Sanctions or Export Controls. The Company nor the Asset Seller nor any of their respective officers, managers, employees, agents or other representatives acting on behalf of or on the express, implied or apparent authority of the Company or the Asset Seller is subject to any pending or threatened investigations or proceedings with respect to Sanctions or Export Controls.

4.27 Full Disclosure. No representation or warranty of the Sellers contained in this Agreement or in any other agreement delivered by the Sellers, or in connection with the transactions contemplated herein or therein, contains a material omission, untrue statement of fact or omits or will omit to state a fact necessary to make the statements contained herein or therein not misleading.

ARTICLE 5

Representations and Warranties of Buyer

Buyer represents and warrants to the Sellers, as of the date of this Agreement, as follows:

5.1 Organization; Authorization. Buyer is a corporation duly organized, validly existing and in good standing under the laws of the State of Arizona. Buyer has all requisite legal right, power and authority to execute, deliver and perform this Agreement and each other agreement, instrument and document to be executed and delivered by Buyer in connection herewith (collectively, the “Buyer Ancillary Agreements”), and to consummate the transactions contemplated herein and therein. The execution, delivery and performance of this Agreement and the Buyer Ancillary Agreements have been duly authorized by all requisite action of Buyer.

5.2 Execution and Delivery; Enforceability. This Agreement has been, and each Buyer Ancillary Agreement upon delivery will have been, duly executed and delivered by Buyer and constitutes, or will upon such delivery constitute, the legal, valid and binding obligation of Buyer, enforceable in accordance with its terms, except as such enforcement may be limited by principles of equity. Buyer is not a party to, subject to, or bound by any Order or any Contract which would prevent the execution or delivery of this Agreement or any Buyer Ancillary Agreement by Buyer.

5.3 Governmental Authorities; Consents. Buyer is not required to submit any notice, report or other filing with, or obtain any consent, approval or authorization of, any Governmental Authority or other Person in connection with Buyer’s execution, delivery or performance of this Agreement or any Buyer Ancillary Agreement, and such execution, delivery and performance will not violate any Law by which Buyer is bound.

5.4 Brokerage. Except for fees or expenses which have already been paid, no Person is or will become entitled, by reason of any agreement or arrangement entered into or made by or on behalf of Buyer, to receive any commission, brokerage, finder’s fee or other similar compensation in connection with the consummation of the transactions contemplated by this Agreement.

5.5 Legal Proceedings. There is no Order or action, suit, arbitration, proceeding, investigation or claim of any kind whatsoever, at Law or in equity, pending or, to the knowledge of Buyer, threatened against Buyer, which would give a third-party the right to enjoin or rescind the transactions contemplated by this Agreement or otherwise prevent Buyer from complying with the terms and provisions of this Agreement.

5.6 Investment Representations. Buyer acknowledges that the Membership Interests are to be acquired by Buyer for investment for its own account, not as a nominee or agent, and not with a view to the sale or distribution of any part thereof, and Buyer has no present intention of selling, granting participation in, or otherwise distributing the Membership Interests. Buyer does not have an agreement or arrangement with any Person to sell, transfer or grant participation to such Person, or to any third Person, with respect to the Membership Interests. Buyer understands that the Membership Interests have not been registered under the 1933 Act, on the grounds that the sale and transfer of securities hereunder is exempt from registration under the 1933 Act, and that Sellers' reliance on such exemption is predicated in part on the representations set forth herein. Buyer represents that it is an "accredited investor," as defined under Regulation D of the 1933 Act, has such knowledge and experience in financial and business matters as to be capable of evaluating the merits and risks of its acquisition of the Membership Interests, and has the ability to bear the economic risks of such acquisition. Buyer understands that no public market now exists for the Membership Interests and that there is no assurance that a public market will ever exist for the Membership Interests.

ARTICLE 6

Closing Deliveries

6.1 Closing Deliveries of Sellers. At or prior to Closing, the Sellers shall deliver to Buyer:

(a) evidence reasonably acceptable to Buyer that Sellers or the Company, as applicable, have made or received all filings, authorizations, approvals and consents set forth on Schedule 6.1(a), with or from all applicable Governmental Authorities or other Persons, as the case may be, related to the transactions contemplated hereby;

(b) (i) all certificates (if any) for the Membership Interests, duly endorsed for transfer or accompanied by a duly executed Membership Interest power or other appropriate instrument of assignment and transfer, and (ii) all original record books (including original Membership Interest certificates (if any)) of the Company;

(c) the written resignation, effective as of the Closing, of each director and officer of the Company listed on Schedule 6.1(c) from such position as director or officer;

(d) the Pay-Off Documents;

(e) evidence that all documents listed on Schedule 6.1(e) have been terminated;

(f) a certificate of good standing or equivalent, as of the most recent practicable date, of (i) the Company from the Department of State of Puerto Rico, and (ii) of the Asset Seller from the Secretary of State of Colorado;

(g) (i) a non-foreign person affidavit that complies with the requirements of Section 1445 of the Code, executed by each Seller, and (ii) a properly completed and executed IRS Form W-9 from each Seller;

(h) a counterpart signature page to a flow of funds memorandum (the "Flow of Funds Memo"), duly executed by Sellers; and

(i) counterpart signature pages to (i) the employment agreement between the Company and Kevin Curtis (the "Kevin Employment Agreement"), duly executed by Kevin Curtis; (ii) the employment agreement between the Company and Stacy Curtis (the "Stacy Employment Agreement"), duly executed by Stacy Curtis; (iii) the employment agreement between the Company and Eric A. Potter (the "Eric Employment Agreement"), duly executed by Eric A. Potter; and (iv) the employment agreement between the Buyer and Guy Dodds (together with the Kevin Employment Agreement, the Stacy Employment Agreement, and the Eric Employment Agreement, the "Employment Agreements"), duly executed by Guy Dodds.

Any agreement or document to be delivered to Buyer pursuant to this Section 6.1, the form of which is not attached to this Agreement as an exhibit, shall be in form and substance reasonably satisfactory to Buyer.

6.2 Buyer Closing Deliveries. At or prior to Closing, Buyer shall deliver to Sellers' Representative the following:

- (a) the Closing Cash Payment to the Sellers' Account, (ii) the Repaid Closing Indebtedness pursuant to the terms of the Pay-Off Documents, and (iii) the Selling Expenses on behalf of the Company and the Asset Seller;
- (b) a counterpart signature page to the Flow of Funds Memo, duly executed by Buyer; and
- (c) counterpart signature pages to the Employment Agreements, duly executed by Buyer on behalf of the Company.

Any agreement or document to be delivered to Sellers' Representative pursuant to this Section 6.2, the form of which is not attached to this Agreement as an exhibit, shall be in form and substance reasonably satisfactory to Sellers' Representative.

ARTICLE 7

The Closing

The consummation of the transactions contemplated herein (the "Closing") will take place simultaneously with the execution of this Agreement by e-mail exchange of relevant signature pages, deliveries and other documents as Buyer and Sellers' Representative may mutually agree. The date on which the Closing actually occurs is referred to herein as the "Closing Date." The transfers and deliveries described in Article 6 shall be mutually interdependent and shall be regarded as occurring simultaneously, and, any other provision of this Agreement notwithstanding, no such transfer or delivery shall become effective or shall be deemed to have occurred until all of the other transfers and deliveries provided for in Article 6 shall also have occurred or been waived in writing by the party entitled to waive the same. For purposes of allocation of expenses, adjustments, Tax and other financial effects of the transactions contemplated hereby, the Closing of the Membership Interest Purchase shall be deemed to have occurred at 11:59 p.m. Eastern Standard Time on the Closing Date, and the Closing of the Asset Purchase shall be deemed to have occurred at 12:01 a.m. Eastern Standard Time on the Closing Date. For all other purposes, including passage of title and risk of loss, the effective time shall be at the Closing.

ARTICLE 8 Covenants and Agreements

8.1 Post-Closing Publicity. Following the Closing, no party shall make any public disclosure or comment regarding the specific terms of this Agreement or the transactions contemplated herein without the prior approval of Buyer or Sellers' Representative, as the case may be, which approval shall not be unreasonably withheld, conditioned or delayed, except as may be required by Law or by any Governmental Authority or the rules of any stock exchange or trading system or reasonably necessary to enforce any rights under this Agreement. Each party hereto shall be entitled to disclose or comment to any Person that a transaction has been consummated. In addition, nothing herein shall preclude communications or disclosures necessary to implement the provisions of this Agreement, and Buyer and its respective Affiliates may make such disclosures as they may consider necessary in order to satisfy their legal or contractual obligations to their lenders, shareholders, investors or other interested parties, or for general marketing purposes, without the prior written consent of the Sellers or Sellers' Representative, as the case may be.

8.2 Expenses. Buyer shall pay all fees and expenses incident to the transactions contemplated by this Agreement which are incurred by Buyer or its representatives or are otherwise expressly allocated to Buyer hereunder, and Sellers or the Company shall pay all fees and expenses incident to the transactions contemplated by this Agreement (including all Selling Expenses, which shall be paid by Buyer as provided in Section 2.5(d) but deemed paid by Sellers) which are incurred by Sellers or the Company or its representatives or are otherwise expressly allocated to Sellers hereunder.

8.3 No Assignments. No assignment of all or any part of this Agreement or any right or obligation hereunder may be made by any party hereto without the prior written consent of Buyer and Sellers' Representative, and any attempted assignment without such consent shall be void and of no force or effect; provided, however, that (a) Buyer may assign any of its rights or delegate any of its duties under this Agreement to any Affiliate of Buyer; provided further that, no such assignment shall relieve Buyer of its obligations hereunder; (b) Buyer may assign its rights, but not its obligations, under this Agreement to any of its financing sources; and (c) Buyer and its successors and permitted assigns may assign their rights, but not their obligations, under this Agreement in connection with a transfer of all or substantially all of the assets of Buyer or the Company.

8.4 Release. Each Seller hereby unconditionally and irrevocably and forever releases and discharges Buyer and the Company and their present or former managers, directors, officers, employees, agents and Affiliates (collectively, the "Company Released Parties"), of and from, and hereby unconditionally and irrevocably waives, any and all claims, debts, losses, expenses, proceedings, covenants, liabilities, suits, judgments, damages, actions and causes of action, obligations, accounts, and liabilities of any kind or character whatsoever, known or unknown, suspected or unsuspected, in contract or in tort, direct or indirect, at Law or in equity (collectively, "Claims"), that such Seller ever had, now has or ever may have or claim to have against the Company Released Parties, for or by reason of any matter, circumstance, event, action, inaction, omission, cause or thing whatsoever arising prior to the Closing; provided, however, that this release does not extend to any Claim to enforce such Seller's rights under this Agreement or any Seller Ancillary Agreement. Such Seller agrees not to, and agrees to cause its Affiliates, successors and assigns not to, assert any such claims against the Company Released Parties.

Buyer and Company hereby unconditionally and irrevocably and forever release and discharge each Seller, of and from, and hereby unconditionally and irrevocably waive, any and all claims, debts, losses, expenses, proceedings, covenants, liabilities, suits, judgments, damages, actions and causes of action, obligations, accounts, and liabilities of any kind or character whatsoever, known or unknown, suspected or unsuspected, in contract or in tort, direct or indirect, at Law or in equity (collectively, "Claims"), that Buyer and Company ever had, now has or ever may have or claim to have against each Seller, for or by reason of any matter, circumstance, event, action, inaction, omission, cause or thing whatsoever arising prior to the Closing; provided, however, that this release does not extend to any Claim to enforce such Buyer's rights under this Agreement or any Buyer Ancillary Agreement. Buyer and Company agree not to, and agree to cause its Affiliates, successors and assigns not to, assert any such claims against each Seller.

8.5 Further Assurances. From time to time after the Closing, at the request of any party hereto, each other party hereto shall execute and deliver any further instruments and take such other action as such party may reasonably request to carry out the transactions contemplated hereby.

8.6 Tax Matters.

8.6.1 Cooperation on Tax Matters. Following the Closing, the Sellers, on the one hand, and Buyer, on the other hand, shall, and Buyer shall cause the Company to, cooperate fully, as and to the extent reasonably requested by any other party, in connection with any audit, litigation or other proceeding with respect to Taxes or the preparation of any Tax Return. Such cooperation shall include the retention and (upon any other party's request) the provision of records and information which are reasonably relevant to any such Tax matter or required by the Code or other applicable Law and making employees available on a mutually convenient basis to provide additional information and explanation of any material provided hereunder. The Sellers and Buyer agree (a) to retain all books and records with respect to Tax matters pertinent to (i) the Company and (ii) the Business or the Purchased Assets for the period owned by the Asset Seller relating to any taxable period beginning on or before the Closing Date until the expiration of the statute of limitations (and, to the extent notified by Buyer or Sellers' Representative, any extensions thereof) of the respective taxable periods, and to abide by all record retention agreements entered into with any Taxing Authority, and (b) to give the other party reasonable written notice prior to transferring, destroying or discarding any such books and records and allow such other party to take possession of such books and records. Buyer, on the one hand, and the Sellers, on the other hand, agree, upon request, to use commercially reasonable efforts to obtain any certificate or other document from any Governmental Authority or any other Person as may be necessary to mitigate, reduce or eliminate any Tax that could be imposed (including, but not limited to, with respect to the transactions contemplated hereby). The Sellers, on the one hand, and Buyer, on the other hand, further agree, upon request, to provide the other party with all information that any party may be required to report pursuant to the Code, and all regulations promulgated thereunder, or other applicable Law. All Tax sharing agreements or similar agreements with respect to or involving (i) the Company or (ii) the Business or the Purchased Assets shall be deemed terminated as of the Closing, and, after the Closing, neither Buyer nor the Company shall be bound thereby or have any liability thereunder.

8.6.2 Tax Returns. Buyer shall prepare and file, or cause the Company to prepare and file, all Tax Returns of the Company for Pre-Closing Tax Periods, including Straddle Periods (“Pre-Closing Tax Returns”), and the Sellers shall pay to Buyer, within ten (10) days of Buyer’s request, any and all Taxes due with respect to such Pre-Closing Tax Returns that relate to Pre-Closing Tax Periods, except to the extent such Taxes are specifically reflected on the Final Adjustment Statement. The reasonable fees and expenses incurred in the preparation of Pre-Closing Tax Returns for Tax periods ending on or prior to the Closing Date shall be the responsibility of the Sellers, and the Sellers, on a joint and several basis, shall pay to Buyer, within five (5) days of Buyer’s request, any such fees and expenses. The parties shall prorate the responsibility for the reasonable fees and expenses incurred in the preparation of Pre-Closing Tax Returns for Straddle Periods, with such proration based on the relative shares of each party with respect to Taxes owed with respect to such Pre-Closing Tax Return (as determined under Section 8.6.3). Such Pre-Closing Tax Returns shall be prepared in a manner consistent with past practice (except as otherwise required by Law), and Buyer shall provide or cause to be provided any such Pre-Closing Tax Return to Sellers’ Representative at least thirty (30) days prior to the due date of such Pre-Closing Tax Return (after applicable extensions), or such shorter period as is commercially reasonable, for Sellers’ Representative’s review and comment. Not later than ten (10) days after Buyer has provided such Pre-Closing Tax Return, or such shorter period as is necessary to allow for the timely filing of such Pre-Closing Tax Return, Sellers’ Representative shall notify Buyer of the existence of any objection, specifying in reasonable detail the nature and basis of such objection that Sellers’ Representative may have to any item set forth on such draft Pre-Closing Tax Return. Buyer (on behalf of itself, and following the Closing, the Company) and Sellers’ Representative (on behalf of the Sellers) agree to consult and resolve in good faith any such objection. If resolution is not reached after such good faith efforts, then the Independent Accountants (or if the Independent Accountants shall decline to hear such dispute, then such other nationally recognized accounting firm selected jointly by Buyer and Sellers’ Representative) shall be requested to make a determination resolving any dispute between Buyer and Sellers’ Representative, and the determination by the Independent Accountants (or such other accounting firm) of any such dispute shall be final and binding on the parties hereto. The fees and disbursements of the Independent Accountants shall be borne by the party (i.e., Buyer, on the one hand, or Sellers’ Representative (on behalf of the Sellers), on the other hand) that assigned amounts to items in dispute that were, on a net basis, furthest in amount from the amount finally determined by the Independent Accountants. If Buyer and Sellers’ Representative cannot resolve such objection no later than five (5) days prior to the due date for filing such Pre-Closing Tax Return, Buyer shall cause the Company to file such Pre-Closing Tax Return in a manner determined in good faith; provided, however, if upon resolving such objection the Pre-Closing Tax Return needs to be changed, Buyer shall cause the Company to file an amendment to such Pre-Closing Tax Return. If the Tax period of the Company ends on the Closing Date, the Sellers and Buyer agree with respect to the filing of Tax Returns of the Company pursuant to this Section 8.6.2 to treat any income Tax deductions of the Company permitted under applicable Law resulting from the payment of any Selling Expenses and the payment of Repaid Closing Indebtedness (including any deductions for financing fees) as occurring on the Closing Date to the greatest extent permitted under applicable Law. Buyer shall prepare and timely file or cause to be prepared and timely filed all Tax Returns of the Company that are not Pre-Closing Tax Returns. The Asset Seller shall prepare and file (at the sole cost and expense of the Asset Seller) on a timely basis all reports and Tax Returns required by applicable Law relating to the Business as conducted prior to the Closing or relating to the Purchased Assets for the period of time such assets are owned by the Asset Seller and shall timely pay all applicable Taxes related thereto (whether or not shown on any Tax Return).

8.6.3 Apportionment of Taxes. All Taxes and Tax liabilities with respect to (i) the Company or (ii) the Business or the Purchased Assets that relate to a Straddle Period shall be apportioned between the Pre-Closing Tax Period and the Post-Closing Tax Period as follows: (a) in the case of Taxes that are either (i) based upon or measured by reference to income, receipts, profits, capital, or net worth (including sales and use Taxes), (ii) imposed in connection with any sale or other transfer or assignment of property (real or personal, tangible or intangible), other than conveyances pursuant to this Agreement (as provided under Section 8.6.5), or (iii) required to be withheld, such Taxes apportioned to the Pre-Closing Tax Period shall be deemed equal to the amount which would be payable if the Tax year (or other Tax reporting period to the extent such Taxes are reported and paid other than on an annual basis) ended at the end of the day on the Closing Date; and (b) in the case of all other Taxes, such Taxes apportioned to the Pre-Closing Tax Period shall be deemed to be the amount of such Taxes for the entire period (or, in the case of such Taxes determined on an arrears basis, the amount of such Taxes for the immediately preceding period), multiplied by a fraction, the numerator of which is the number of calendar days in the period ending on the Closing Date and the denominator of which is the number of calendar days in the entire period. In the case of any apportionment of Taxes applicable to the Company pursuant to clause (a)(i) of this Section 8.6.3, any income Tax deductions of the Company permitted under applicable Law resulting from the payment of any Selling Expenses and the payment of Repaid Closing Indebtedness (including any deductions for financing fees) shall be apportioned to the Pre-Closing Tax Period.

8.6.4 Controversies. Buyer shall notify Sellers' Representative in writing within ten (10) days of the receipt by Buyer or the Company of written notice of any inquiries, audits, examinations, assessments, or proceedings from any Taxing Authority with respect to Taxes (i) of the Company or (ii) described in clause (x) of Section 2.4.2 for which the Sellers would be required to indemnify any Buyer Indemnitee pursuant to this Agreement (any such inquiry, assessment, proceeding or similar event, a "Tax Matter"); provided, however, that any failure by Buyer to deliver such notice within such time period shall not affect in any way the Sellers' obligation for indemnification, except if and to the extent the Sellers are actually and materially prejudiced thereby. Buyer has the right to represent the interests of Buyer or the Company, as applicable, before the relevant Taxing Authority with respect to any Tax Matter and has the right to control the defense, compromise or other resolution of any such Tax Matter, including responding to inquiries, filing Tax Returns and contesting, defending against and resolving any assessment for additional Taxes or notice of Tax deficiency or other adjustment of Taxes of, or relating to, such Tax Matter. Sellers' Representative shall have the right (but not the duty) to participate in the defense of such Tax Matter and to employ counsel, at his own expense, separate from counsel employed by Buyer. Buyer shall not enter into any settlement of or otherwise compromise any such Tax Matter to the extent that it adversely affects the Tax liability of the Sellers without the prior written consent of Sellers' Representative, which consent shall not be unreasonably withheld, conditioned or delayed. Buyer shall keep Sellers' Representative informed with respect to the commencement, status, and nature of any such Tax Matter, and will, in good faith, allow Sellers' Representative or his counsel to consult with it regarding the conduct of or positions taken in any such proceeding and to be present at any meetings or proceedings with the relevant Taxing Authority.

8.6.5 Transfer Taxes. The Sellers shall pay any and all sales, use, value added, transfer, stamp, registration, real property transfer or gains and similar Taxes (including any penalties and interest) ("Transfer Taxes") incurred as a result of the transactions contemplated by this Agreement when due, and Sellers' Representative, at his expense (on behalf of all the Sellers), shall pay and file or cause to be filed all necessary Tax Returns and other documentation with respect to all such Transfer Taxes.

8.6.6 Allocation. The parties agree that 82.5% of the Purchase Price is attributable to the purchase by Buyer of the Membership Interests and that 17.5% of the Purchase Price is attributable to the purchase by Buyer of the Purchased Assets. The portion of the Purchase Price that is consideration for the Purchased Assets (along with the Assumed Liabilities) shall be allocated, for Tax purposes, among the Purchased Assets in a manner consistent with the provisions of Section 1060 of the Code and the methodology set forth on Schedule 8.6.6 (the "Allocation Methodology"). Any subsequent adjustment to the portion of the Purchase Price that is consideration for the Purchased Assets will also be allocated in accordance with the Allocation Methodology. Within thirty (30) days following the final determination of the Purchase Price pursuant to Section 2.8, Buyer shall prepare and deliver to Sellers' Representative an allocation (the "Allocation") of the portion of the Purchase Price attributable to the Purchased Assets (and other relevant items, such as the Assumed Liabilities) among the Purchased Assets, which shall be prepared in accordance with the Allocation Methodology. Buyer agrees to consider in good faith any comments to the Allocation received from Sellers' Representative within ten (10) days of delivery by Buyer of the Allocation. Buyer and the Sellers shall file their Tax Returns (including IRS Form 8594) in accordance with the Allocation and the other terms of this Schedule 8.6.6.

8.6.7 Allocation of Certain Tax Deductions. Buyer and the Sellers acknowledge that certain equipment of the Company purchased on or prior to the Closing Date shall nonetheless be funded, following the Closing Date, by Buyer. With respect to any such equipment, and notwithstanding any provision in Section 8.6.2 or Section 8.6.3, the benefit of any Tax deductions related to the purchase or ownership of any such equipment (including, but not limited to, pursuant to Section 179 of the Code) shall be allocated between Buyer and the Sellers in proportion to the manner by which each funds the purchase price of such equipment. Buyer and the Sellers anticipate that this allocation of deductions shall generally be handled pursuant to the preparation and filing of Tax Returns pursuant to Section 8.6.2 and determining the Sellers' responsibility for Taxes pursuant to Section 8.6.2 and Article 9.

8.6.8 Conflicts. In the event of any conflict between Article 9 and this Section 8.6 with respect to Tax matters, this Section 8.6 shall control. Any provision of Article 9 not in conflict with this Section 8.6, but that is supplemental or additive to the provisions of this Section 8.6, shall be deemed incorporated into this Section 8.6.

8.7 Restrictive Covenants.

8.7.1 Acknowledgments by Sellers. Each Seller acknowledges and agrees that, in the case of the Interest Sellers, as a result of such Interest Seller's direct or indirect ownership of the Membership Interests, and in the case of the Asset Seller, as a result of the Asset Seller's ownership of the Purchased Assets), such Seller: (a) was afforded access to Confidential Information which could have an adverse effect on Buyer, the Company and their respective businesses if it is disclosed, and that, as a condition to the consummation of the transactions contemplated hereby, it is reasonable and necessary for such Seller to promise and agree, on its own behalf and on behalf of its Affiliates, subject to the terms and conditions herein, not to disclose such Confidential Information; and (b) has knowledge and expertise in the business conducted by the Company and the Asset Seller that is special and unique, and that, as a condition to Buyer's consummation of the transactions contemplated hereby, it is reasonable and necessary for such Seller to promise and agree, on its own behalf and on behalf of its Affiliates, subject to the terms and conditions herein, not to compete or interfere with the conduct of the business purchased by Buyer as expressly provided in this Section 8.7. Such Seller further acknowledges and agrees that the direct benefits provided to such Seller under this Agreement constitute good and sufficient consideration for the agreements and covenants in this Section 8.7.

8.7.2 Nondisclosure. Each Seller covenants and agrees that, from and after the Closing Date, neither such Seller, nor any Affiliate of such Seller, shall disclose or use, directly or indirectly, any Confidential Information. If the disclosure of Confidential Information is required by Law, such Seller may disclose it, but only after using commercially reasonable efforts to provide Buyer an opportunity to object to the disclosure and shall give Buyer as much prior written notice as is possible under the circumstances. For purposes of this Section 8.7, "Confidential Information" means (a) all information belonging to, used by, or which is in the possession of, the Company or such Seller relating to the Company's or the Asset Seller's respective business or assets, specifically including, without limitation, information relating to the Company's or the Asset Seller's products, services, strategies, pricing, customers, representatives, suppliers, distributors, technology, finances, employee compensation, computer software and hardware, inventions, developments, or Trade Secrets, in each case to the extent such information has not been disseminated to the public or is otherwise not generally known to competitors of the Company or the Asset Seller and (b) all information relating to the acquisition of the Company and the Purchased Assets by Buyer hereunder, including, without limitation, all strategies, negotiations, discussions, terms, conditions and other information relating to this Agreement, any Seller Ancillary Agreement, any Business Ancillary Agreement or any Buyer Ancillary Agreement, to the extent such information has not been disseminated to the public or is otherwise not generally known to competitors of the Company or the Asset Seller (provided that such Seller (i) may disclose Confidential Information to its accountants, legal and other representatives for tax, accounting, financial and legal purposes, and (ii) shall be liable to Buyer for any disclosure of Confidential Information by such representatives). Such Seller hereby agrees that it will be responsible for any breach of any provision of this Agreement by its representatives. Such Seller acknowledges and agrees that all of the Confidential Information is, and after the Closing will continue to be, the exclusive proprietary property of the Company or the Buyer, whether or not prepared in whole or in part by such Seller and whether or not disclosed to or entrusted to the custody of such Seller.

8.7.3 Noncompetition. Each Seller covenants and agrees that until the fifth (5th) anniversary of the Closing Date (the “Non-Competition Period”), neither such Seller, nor any Affiliate of such Seller will, without the prior written consent of Buyer, either directly or indirectly, whether or not for consideration, (a) solicit business from, or otherwise compete with the Company for the business of, any former or current customer of the Company or the Asset Seller, in each case with respect to the Business for the purchase of services or products the same as or substantially similar to, or which may be otherwise used in substitution for, products or services manufactured, sold or provided by the Company anywhere the Company conducts or markets the Business; (b) operate, control, advise, be engaged by, perform any consulting services for, invest in or otherwise become associated in any capacity with, any business, company, partnership, organization, proprietorship, or other entity, who or which, at any time during the applicable Non-Competition Period, competes with the Company with respect to the Business anywhere the Company conducts or markets the Business; or (c) engage in any practice the purpose of which is to compete with the Company while evading the provisions of this covenant; provided, however, that nothing contained herein shall prevent such Seller from acquiring an equity interest of up to three percent (3%) of an entity whose shares are traded on a national securities exchange or over-the-counter market.

8.7.4 Noninterference. Each Seller covenants and agrees that during the Non-Competition Period, neither such Seller, nor any Affiliate of such Seller will, without the prior written consent of Buyer, either directly or indirectly, (a) solicit, induce or attempt to solicit or induce, whether or not for consideration, any employee or consultant of the Company to terminate his or her relationship with the Company; provided, however, general solicitations by such Seller not directed at any specific employee of the Company will not violate the foregoing; (b) hire or retain, as applicable, any employee, agent or consultant of the Company, or (c) induce or attempt to induce any licensor, customer, supplier or contractor of the Company to terminate or adversely change its relationship with the Company or otherwise interfere with any relationship between the Company and any of its licensors, customers, suppliers or contractors.

8.7.5 Equitable Relief. Each Seller agrees that money damages alone will not be a sufficient remedy for any breach of the provisions of Section 8.7, and that, in addition to all other remedies, Buyer will be entitled to specific performance and injunctive or other equitable relief as a remedy for any such breach, and such Seller hereby waives the securing or posting of any bond in connection with such remedy.

8.7.6 Reformation of Agreement. If any of the covenants contained in Section 8.7, or any portion thereof, is found by a court of competent jurisdiction to be invalid or unenforceable as against public policy or for any other reason, such court shall exercise its discretion to reform such covenant to the end that each Seller shall be subject to nondisclosure, noncompetition, noninterference or other covenants, as applicable, that are reasonable under the circumstances and are enforceable by Buyer. In any event, if any provision of Section 8.7 is found unenforceable for any reason, such provision shall remain in force and effect to the maximum extent allowable and all non-affected provisions shall remain fully valid and enforceable.

8.7.7 Reasonableness of Terms. Buyer and Sellers stipulate and agree that the covenants and other terms contained in Section 8.7 are reasonable in all respects, including time period, geographical area and scope of restricted activities, that Buyer would not have purchased the Membership Interests or the Purchased Assets had Sellers not agreed to these covenants, and that the restrictions contained herein are designed to protect the businesses of Buyer and the Company and ensure that the Confidential Information of the Company is protected and that Sellers do not engage in unfair competition or solicitation against the Company.

8.8 Sellers' Representative.

8.8.1 Designation. Sellers' Representative is hereby designated by each Seller to serve as the representative of Sellers with respect to the matters expressly set forth in Section 8.8.2 and with respect to the matters otherwise set forth in this Agreement to be performed by Sellers' Representative. Should the initial Sellers' Representative resign or be unable to serve, Sellers, via mutual written agreement, shall be entitled to designate a single substitute agent to serve as the successor Sellers' Representative, who shall be Sellers' Representative for all purposes thereafter. The appointment of such successor, in either case, shall be effective on the date of Sellers' Representative's resignation or incapacity or, if later, the date on which such successor is appointed.

8.8.2 Authority. Each Seller, by the execution of this Agreement, hereby irrevocably appoints Sellers' Representative as the agent, proxy and attorney-in-fact for such Seller for all purposes of this Agreement, including the full power and authority on such Seller's behalf (a) to consummate the transactions contemplated herein and any post-Closing matters, including making decisions and taking any action with respect to the matters set forth in Section 2.8 [Post-Closing Adjustment]; (b) to pay such Seller's expenses incurred in connection with the negotiation and performance of this Agreement (whether incurred on or after the date of this Agreement); (c) to disburse any funds received hereunder to such Seller and each other Seller; (d) to endorse and deliver any certificates or instruments representing the Membership Interests (if any) and execute such further instruments of assignment as Buyer shall reasonably request; (e) to make, execute and deliver on behalf of such Seller any amendment or waiver of, or in connection with, this Agreement and the other agreements or documents contemplated hereby as Sellers' Representative, in its sole discretion, may deem necessary or desirable; (f) to take all other actions to be taken by or on behalf of such Seller in connection herewith; (g) to do each and every act and exercise any and all rights which such Seller(s) collectively are permitted or required to do or exercise under this Agreement; (h) to prepare and distribute to each Seller any documentation necessary or desirable for the filing of income Tax Returns; and (i) to make, execute, acknowledge and deliver this Agreement and all such other agreements, guarantees, orders, receipts, endorsements, notices, requests, instructions, certificates, letters and other writings, and, in general, to do any and all things and to take any and all action that Sellers' Representative, in its sole and absolute discretion, may consider necessary or proper or convenient in connection with or to carry out the transactions contemplated by this Agreement and all other agreements and documents referred to herein or therein or executed in connection herewith and therewith, including, without limitation, retaining counsel, accountants and other agents, representatives and experts, incurring fees and expenses, asserting or pursuing any claim against Buyer, the Company and/or any Seller, defending any claims by Buyer or Third-Party Claims, consenting to, compromising or settling any such claims, conducting negotiations with Buyer, the Company and their respective representatives regarding such claims, it being understood that Sellers' Representative shall not have any obligation to take any such actions, and shall not have any liability for any failure to take any such actions. Notwithstanding anything to the contrary herein, however, Sellers' Representative shall not have the power to take any action or actions arising out of any alleged breach of any representation or warranty in Article 3 or any covenant or agreement contained herein by a particular Seller or group of Sellers without the express authorization of such Seller or group of Sellers, and Buyer hereby acknowledges such limitation. Each Seller agrees that such agency and proxy are coupled with an interest, are therefore irrevocable without the consent of Sellers' Representative and shall survive the death, incapacity, bankruptcy, dissolution or liquidation of any Seller. All decisions and actions by Sellers' Representative (to the extent authorized by this Agreement) shall be binding upon all Sellers, and no Seller shall have the right to object, dissent, protest or otherwise contest the same; provided, however, that Sellers' Representative shall not take any such action where (i) any single Seller would be held solely liable for any actual losses, out-of-pocket costs or expenses, liabilities or other damages (without such Seller's consent) or (ii) such action materially and adversely affects the substantive rights or obligations of one Seller, or group of Sellers, without a similar proportionate effect upon the substantive rights or obligations of all Sellers, unless each such disproportionately affected Seller consents in writing thereto.

8.8.3 Reliance; Indemnification. Each Seller agrees that Buyer and the Company shall be entitled to rely on any action taken or omission to act by Sellers' Representative, on behalf of such Seller, pursuant to Section 8.8.2 (an "Authorized Action"), and that each Authorized Action shall be binding on each Seller as fully as if such Seller had taken such Authorized Action. Buyer agrees, for itself and the Company, that Sellers' Representative, in its capacity as Sellers' Representative, shall have no liability to Buyer or the Company for any Authorized Action, except to the extent that such Authorized Action is found by a final order of a court of competent jurisdiction to have constituted gross negligence, fraud or willful misconduct. Each Seller on a joint and several basis, hereby agrees to indemnify and hold harmless Sellers' Representative against all expenses (including reasonable attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by Sellers' Representative in connection with any action, suit or proceeding to which Sellers' Representative is made a party by reason of the fact it is or was acting as Sellers' Representative pursuant to the terms of this Agreement and any expenses incurred by Sellers' Representative in connection with the performance of its duties hereunder.

8.8.4 Relationship; Payments to Sellers. Sellers' Representative shall not have by reason of this Agreement a fiduciary relationship in respect of any Seller, except in respect of amounts received hereunder on behalf of such Seller. Sellers' Representative shall not be liable to any Seller for any action taken or omitted by it or any agent employed by it hereunder or under any other document entered into in connection herewith, except that Sellers' Representative shall not be relieved of any liability imposed by Law for willful misconduct. Sellers' Representative shall not be liable to Sellers for any apportionment or distribution of payments made by Sellers' Representative in good faith, and if any such apportionment or distribution is subsequently determined to have been made in error, the sole recourse of any Seller to whom payment was due, but not made, shall be to recover from other Sellers any payment in excess of the amount to which they are determined to have been entitled. Neither Sellers' Representative nor any agent employed by it shall incur any liability to any Seller by virtue of the failure or refusal of Sellers' Representative for any reason to consummate the transactions contemplated hereby or relating to the performance of its other duties hereunder, except for actions or omissions constituting fraud or bad faith.

8.8.5 Survival. All of the indemnities, immunities and powers granted to Sellers' Representative under this Agreement shall survive the Closing Date.

8.9 Post-Closing Audit. After the Closing Date, Sellers shall use their respective best efforts, and shall direct the Company's and the Asset Seller's outside accountants, to cooperate as requested by Buyer or its representatives to assist Buyer and its representatives in completing such audits of the Company and the Asset Seller's financial statements for the pre-Closing periods, and preparing pro forma financial statements and such other financial information, as are necessary for Buyer to timely comply with its obligations under Regulation S-X and Item 9.01 of Form 8-K promulgated under the Exchange Act in connection with the transactions contemplated hereby.

ARTICLE 9

Indemnification

9.1 Indemnification of Buyer. From and after the Closing, the Sellers shall, on a joint and several basis, indemnify Buyer and the Company and their respective officers, directors, managers, employees, agents, partners, stockholders, members, Affiliates, successors and assigns (collectively, the "Buyer Indemnitees") against and hold the Buyer Indemnitees harmless from such Losses incurred by the Buyer Indemnitees:

(a) arising out of or caused by any inaccuracy in, or breach of, any representation or warranty contained in Article 3 or Article 4 on the part of the Sellers; provided, that for purposes of determining whether there has been a breach of a representation or warranty or calculating Losses hereunder, any materiality, Material Adverse Effect or other similar qualifications in such representations and warranties shall be disregarded;

(b) arising out of or caused by any breach or nonperformance of any covenant or obligation made or incurred by Sellers or Sellers' Representative herein;

(c) arising out of (i) any liability for unpaid Taxes of the Company or the Asset Seller during any Pre-Closing Tax Period (including any portion of a Straddle Period allocable or apportioned to the Sellers (as provided in Section 8.6.3)), except to the extent such Taxes are specifically reflected on the Final Adjustment Statement, (ii) any liability for Taxes of any member of an affiliated, consolidated, combined, or unitary group of which the Company or the Asset Seller is or was a member on or prior to the Closing Date, including pursuant to Section 1.1502-6 of the Treasury regulations or any analogous or similar Law or regulation, and (iii) any liability for Taxes of any Person (other than the Company) imposed on the Company as a transferee or successor, by contract or pursuant to any Law, rule, or regulation, which Taxes relate to an event or transaction occurring prior to the Closing;

(d) arising out of any (i) Closing Indebtedness or (ii) Selling Expenses of the Company to the extent not taken into account in the determination of the Purchase Price pursuant to Section 2.7.1;

(e) arising out of or related to the operation of the Business prior to the Closing Date;

(f) arising out of or related to any Retained Liability; and

(g) arising out of or caused by the matters described on Schedule 9.1(g).

9.2 Limitations on Indemnification. There shall be no limitations as regards Buyer's entitlement to indemnification with respect to the representations and warranties set forth in Sections 3.1 Authority and Capacity), 3.2 (Ownership), 3.3 (Execution and Delivery; Enforceability), 3.4 (Noncontravention), 4.1 (Organization and Good Standing; Authority and Enforceability), 4.2 (Capitalization), 4.5 (Financial Statements), 4.7 (Taxes), 4.9 (Employee benefit Plans and Other Compensation Arrangements), 4.10 (Environmental Matters), 4.12.2 (Personal Property), 4.23 (Related Party Transactions), 4.25 (Brokerage), and 4.26 (Sanctions and Export Controls) (collectively, the "Excluded Sections"). Except for the Excluded Sections, the Buyer shall not be entitled to indemnification for matters that are only indemnifiable under Section 9.1 unless and until the aggregate amount of liability for Losses thereunder exceeds \$50,000 (the "Threshold") at which point Seller will be obligated to indemnify the Buyer for all Losses in excess of the Threshold up to \$1,000,000 of Losses (the "Indemnification Cap"), it being understood that the Threshold and the Indemnification Cap do not apply to the Excluded Sections or in the event of fraud.

9.3 Survival. The representations, warranties, covenants, indemnification obligations and all other agreements of the parties set forth in this Agreement (i) shall be deemed to have been made on the Closing Date, (ii) are material and being relied upon by both Buyer and Seller, and (iii) except as set forth in this Section 9.3, shall survive for two (2) years following the Closing; provided, however, that:

(a) in the case of all such representations, warranties, covenants and agreements (including indemnification obligations), there shall be no such termination to the extent a Claim has been asserted by written notice of such Claim delivered to the party or parties which made such representation, warranty, covenant or agreement prior to the expiration of the applicable survival period;

(b) the representations and warranties set forth in Sections 3.1, 3.2, 3.3, 3.4, 4.1, 4.2, 4.5, 4.12.2, 4.23, 4.25 and 4.26 shall not terminate and shall survive indefinitely;

(c) the covenants and agreements set forth in this Agreement that contemplate compliance or performance after the Closing shall survive the Closing and shall continue until all obligations with respect thereto shall have been fully performed or satisfied;

(d) the representations and warranties in Sections 4.7, 4.9, and 4.10 shall survive for a period equal to the applicable statute of limitations for said matters plus 60 days;

(e) notwithstanding anything herein to the contrary, to the extent that any representation, warranty, covenant or agreement of a part set forth herein was fraudulent, any Claim with respect thereto shall survive indefinitely; and

(f) notwithstanding any right of Buyer fully to investigate the affairs of the Company and the Sellers, and notwithstanding any knowledge of facts determined or determinable by Buyer pursuant to such investigation or right of investigation, Buyer has the right to rely fully upon the representations and warranties of each of the Company and each Seller contained in this Agreement.

9.4 Indemnification of Sellers. From and after the Closing Date, Buyer shall indemnify Sellers and their respective agents, partners, Affiliates, successors and assigns (collectively, the “Seller Indemnitees”) against and hold the Seller Indemnitees harmless from (a) any Losses arising out of or caused by any inaccuracy in, or breach of, any of the representations and warranties made by Buyer in Article 5, and (b) any Losses based upon, arising out of, or caused by, any breach or nonperformance of any covenant or obligation made or incurred by Buyer herein.

9.5 Procedures Relating to Indemnification.

9.5.1 Third-Party Claims.

(a) In order for a party (an “indemnitee”) to be entitled to any indemnification provided for under this Agreement in respect of, arising out of, or involving a claim or demand made by any Person against the indemnitee (a “Third-Party Claim”), such indemnitee must notify the party from whom indemnification hereunder is sought (the “indemnitor”) in writing of the Third-Party Claim no later than fifteen (15) days after such claim or demand is first asserted. Such notice shall state in reasonable detail the amount or estimated amount of such Third-Party Claim, and shall identify the specific basis (or bases) for such Third-Party Claim, including the representations, warranties or covenants in this Agreement alleged to have been breached. Failure to give such notification shall not affect the indemnification provided hereunder except to the extent the indemnitor shall have been actually prejudiced as a result of such failure. Thereafter, the indemnitee shall deliver to the indemnitor, without undue delay, copies of all notices and documents (including court papers received by the indemnitee) relating to the Third-Party Claim so long as any such disclosure could not reasonably be expected, in the reasonable opinion of counsel, to have an adverse effect on the attorney-client or any other privilege that may be available to the indemnitee in connection therewith.

(b) If a Third-Party Claim is made against an indemnitee and if (i) the indemnitor irrevocably admits to the indemnitee in writing its obligation to indemnify the indemnitee for all liabilities and obligations relating to such Third-Party Claim, (ii) no claim for injunctive relief is being made against the indemnitee, (iii) it is reasonably likely that the indemnitee will not suffer a Loss in excess of indemnitor's indemnification obligations hereunder and (iv) the Third-Party Claim does not involve a Material Customer, Material Supplier, or a Governmental Authority, the indemnitor may elect to assume and control the defense thereof, at its expense, with counsel selected by the indemnitor that is reasonably acceptable to indemnitee by providing the indemnitee with notice within fifteen (15) days after the indemnitor's receipt from the indemnitee of notice of the Third-Party Claim; provided, however, that the foregoing right of the indemnitor to elect to assume and control the defense of a Third-Party Claim shall not apply to, and, for the avoidance of doubt, the indemnitor may not elect to assume and control the defense of, any Third-Party Claim involving a Material Customer or Material Supplier. If the indemnitor assumes such defense, the indemnitee shall have the right to participate in the defense thereof and to employ counsel, at its own expense, separate from the counsel employed by the indemnitor, it being understood that the indemnitor shall control such defense; provided, that indemnitee's expenses of counsel shall be an indemnified Loss for purposes of this Article 9 if such counsel reasonably concludes that a conflict exists between indemnitee and indemnitor that cannot be waived. If the indemnitor is eligible to assume the defense of a Third-Party Claim pursuant to this Section 9.5.1 and the indemnitor elects not to assume such defense, the indemnitor shall reimburse the indemnitee for any Losses incurred by indemnitee in the defense of such Third-Party Claim.

(c) If the indemnitor so assumes the defense of any Third-Party Claim, all of the indemnified parties shall reasonably cooperate with the indemnitor in the defense or prosecution thereof. Such cooperation shall include, at the expense of the indemnitor, the retention and (upon the indemnitor's request) the provision to the indemnitor of records and information which are reasonably relevant to such Third-Party Claim, and making employees available on a mutually convenient basis to provide additional information and explanation of any material provided hereunder. If the indemnitor has assumed the defense of a Third-Party Claim, (i) the indemnitee shall not admit any liability with respect to, or settle, compromise or discharge such Third-Party Claim without the indemnitor's prior written consent (which consent shall not be unreasonably withheld or delayed); and (ii) the indemnitor shall not admit any liability with respect to, or settle, compromise or discharge such Third-Party Claim without the indemnitee's prior written consent (which consent shall not be unreasonably withheld or delayed), provided that the indemnitee shall agree to any settlement, compromise or discharge of a Third-Party Claim which the indemnitor may recommend and which by its terms releases the indemnitee from any liability in connection with such Third-Party Claim without cost or expense and without any admission of violation, injunction or agreement to take or restrain from taking any material action.

9.5.2 Other Claims. In the event an indemnitee should have a claim against an indemnitor under this Agreement that does not involve a Third-Party Claim, the indemnitee shall deliver notice of such claim to the indemnitor promptly following discovery of any indemnifiable Loss. Such notice shall, to the extent known by the indemnitee at the time, state in reasonable detail the amount or an estimated amount of such claim, and shall specify the facts and circumstances, to the extent known by the indemnitee at the time, which form the basis (or bases) for such claim, and shall further specify the representations, warranties or covenants alleged to have been breached. Failure to give such notification shall not affect the indemnification provided hereunder, except to the extent the indemnitor shall have been actually prejudiced as a result of such failure. Upon receipt of any such notice, the indemnitor shall notify the indemnitee as to whether the indemnitor accepts liability for any Loss. If the indemnitor disputes its liability with respect to such claim, as provided above, the indemnitor and the indemnitee shall attempt to resolve such dispute in accordance with the terms and provisions of Section 11.4.

9.6 Pre-Closing Breaches; No Reimbursement. Sellers agree that, should they become liable for indemnification to any Buyer Indemnitee pursuant to Section 9.1, the Company shall not have any liability to Sellers for reimbursement, indemnification, subrogation or otherwise as a result of such breach, including any rights under any Contracts or the Company's Organizational Documents.

9.7 Limitation of Remedies. Each party acknowledges and agrees that from and after the Closing, the sole and exclusive remedy with respect to any and all claims relating to this Agreement or the transactions contemplated hereby (other than Fraud Claims) shall be pursuant to the indemnification provisions set forth in this Article 9. All Claims for indemnification must be asserted in good faith and, to the extent applicable to such Claims, within the relevant time periods set forth in this Article 9.

9.8 Right of Offset. Notwithstanding any other provision of this Agreement to the contrary, Buyer may, in its sole discretion, offset and withhold against any amount payable by Buyer all or any portion of (a) the amount of any claim for indemnification made by a Buyer Indemnitee pursuant to Section 9.1, (b) any amounts owed by Sellers pursuant to Section 2.8.5, or (c) any Earn-Out Payment; provided, however, that Buyer shall comply with the procedures set forth in Section 9.4 hereof and if any such withheld amount is ultimately determined not to be owed to Buyer or such Buyer Indemnitee pursuant to such procedures, Buyer shall, promptly upon Buyer's receipt of notice of such ultimate determination, pay such withheld amount to Sellers; provided, further, that Buyer shall be permitted to withhold any Earn-Out Payment during the pendency of the resolution of the applicable indemnification claim(s).

ARTICLE 10 **Certain Definitions**

When used in this Agreement, the following terms in all of their singular or plural tenses, cases and correlative forms shall have the meanings assigned to them in this Article 10, or elsewhere in this Agreement as indicated in this Article 10:

"1933 Act" means the Securities Act of 1933, as amended, and the regulations thereunder.

"Acquisition Balance Sheet" is defined in Section 4.5.1.

An "Affiliate" of a specified Person means any other Person which, directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, such specified Person. For purposes of this definition, "control" of any Person means possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person, whether through the ownership of voting capital stock, by contract, or otherwise.

"Agreement" means this Membership Interest and Asset Purchase Agreement, as may be amended from time to time.

"Authorized Action" is defined in Section 8.8.3.

"Business" means the business of designing, manufacturing and selling components machining parts from wrought, rounds, castings or extrusions and providing in-house anodizing and other finishing and assembly operations, and any other business conducted by the Company or the Asset Seller at any time during the two-year period prior to the Closing Date or at any time during the Non-Competition Period.

"Business Ancillary Agreements" is defined in Section 4.1.

“Business Day” means any day other than a Saturday, Sunday or a day on which banks in Cleveland, Ohio are authorized or obligated by law to close.

“Business Licensed Intellectual Property” means the Intellectual Property licensed to the Company or the Asset Seller by a third-party, but excluding any software that is generally commercially available.

“Business Owned Intellectual Property” means the Intellectual Property owned by the Company or the Asset Seller.

“Business Plan” means any Plan to which the Company or the Asset Seller contributes or contributed to, is or was a party to, is or was bound by or could reasonably be expected to have liability (whether known, accrued, absolute, contingent, liquidated or otherwise) with respect to, and under which managers, directors, officers, employees, independent contractors, consultants or other members of the workforce of the Company or the Asset Seller are or have been eligible to participate or derive a benefit.

“Business Related Person” is defined in Section 4.23.

“Business Released Parties” is defined in Section 8.4.

“Business Software” is defined in Section 4.15(l).

“Buyer” is defined in the preamble of this Agreement.

“Buyer Ancillary Agreements” is defined in Section 5.1.

“Buyer Indemnitees” is defined in Section 9.1.

“CARES Act” is defined in Section 4.7.5.

“Claims” is defined in Section 8.4.

“Closing” and “Closing Date” are defined in Article 7.

“Closing Certificate” is defined in Section 2.7.1.

“Closing Indebtedness” means the aggregate Indebtedness of the Company and the Asset Seller as of the Closing.

“Closing Working Capital” means the aggregate Working Capital of the Company and the Asset Seller as of 11:59 p.m. Eastern Standard Time on the Closing Date.

“Code” means the United States Internal Revenue Code of 1986, as amended, and the regulations promulgated thereunder.

“Company” is defined in the recitals to this Agreement.

“Confidential Information” is defined in Section 8.7.2.

“Contracts” is defined in Section 4.16(a).

“Disclosure Schedules” means the disclosure schedules annexed hereto and made a part hereof.

“Disposal,” “Storage” and “Treatment” shall have the meanings assigned them in the Resource Conservation and Recovery Act, 42 U.S.C. § 6901, et. seq. (“RCRA”) or any similar state or local Law, provided, however, that such terms shall be applied to all “Hazardous Materials,” not solely to “hazardous waste,” as defined in RCRA.

“Environmental Law” means any Law, Order or Permit issued to the Company or the Asset Seller relating to contamination, pollution or the protection of the environment, including, without limitation, soil, land surface or subsurface strata, surface water (including navigable waters, ocean waters, streams, ponds, drainage basins and wetlands), groundwater, drinking water supply, stream sediments, ambient or indoor air, plant and animal life and any other environmental medium or natural resource, or human health and safety or to the use, management, handling, generation, importing, distribution, manufacturing, processing, production, recycling, reclaiming, Storage, Disposal, Treatment, transportation, Release or threatened Release of any Hazardous Material.

“Environmental Notice” is defined in Section 4.10.5.

“ERISA” means the Employee Retirement Income Security Act of 1974, as amended, and the regulations thereunder.

“ERISA Affiliate” means any Person, trade or business that, together with the Company or the Asset Seller, would be treated as a single employer under the terms of Section 414(b), (c), (m) or (o) of the Code or Section 4001 of ERISA.

“Estimated Closing Indebtedness” is defined in Section 2.7.1.

“Estimated Closing Working Capital” is defined in Section 2.7.1.

“Estimated Purchase Price” is defined in Section 2.7.1.

“Estimated Selling Expenses” is defined in Section 2.7.1.

“Exchange Act” means the Securities Exchange Act of 1934, as amended.

“Final Adjustment Statement” is defined in Section 2.8.4.

“Final Post-Closing Adjustment” is defined in Section 2.8.4.

“Financial Statements” is defined in Section 4.5.1.

“Fraud Claims” means claims relating to fraud, criminal activity, bad faith, intentional misrepresentation or intentional misconduct.

“GAAP” means United States generally accepted accounting principles as in effect either from time to time as applied to periods prior to the Closing Date or as applied on the Closing Date, as applicable.

“Governmental Authority” means any domestic, foreign or multi-national federal, state, provincial, regional, municipal or local governmental or administrative authority, including any court, tribunal, agency, bureau, committee, board, regulatory body, administration, commission or instrumentality constituted or appointed by any such authority.

“Hazardous Material” means any chemical, substance, waste, material, pollutant, or contaminant, the use, management, handling, generation, importing, distribution, manufacturing, processing, production, recycling, reclaiming, Storage, Disposal, Treatment, transportation or Release of which is regulated under Law, or which is listed, defined, designated, or classified as, or otherwise determined to be, hazardous, radioactive, or toxic or a pollutant or a contaminant under or pursuant to any Law, including any mixture or solution thereof, and specifically including: petroleum and all petroleum derivatives thereof or synthetic substitutes therefor (including, without limitation, crude oil or any fraction thereof, gasoline or diesel fuel, all forms of natural gas, and petroleum products, by-products or waste); polychlorinated biphenyls; asbestos and asbestos containing materials (whether friable or non-friable); lead and lead-based paint or other lead containing materials (whether friable or non-friable); urea formaldehyde; microbiological pollutants; batteries or liquid solvents or similar chemicals; radon gas; mildew, fungus, mold, bacteria and/or other organic spore material, whether or not airborne, colonizing, amplifying or otherwise; radioactive material or waste; and infectious waste, regardless of whether specifically listed or designated as a hazardous substance or hazardous waste under any Environmental Law.

“Inbound Licenses” is defined in Section 4.15.

“Indebtedness” means, as at any date of determination thereof (without duplication): (a) all obligations of the Company or the Asset Seller for borrowed money or funded indebtedness or issued in substitution for or exchange for borrowed money or funded indebtedness (including obligations in respect of principal, accrued interest, any applicable prepayment charges or premiums and any unpaid fees, expenses or other monetary obligations in respect thereof); (b) any indebtedness evidenced by any mortgage, note, bond, debenture or other debt security (including, without limitation, any notes related to the acquisition of a business by the Company or the Asset Seller); (c) letters of credit or surety bonds (but only to the extent such letters of credit or surety bonds have been drawn upon and then only the outstanding amount required to be paid due to such draws); (d) any lease obligations required to be capitalized in accordance with GAAP; (e) all obligations for reimbursement then required to be made of any obligor on any banker’s acceptance, letters of credit or similar transactions; (f) all obligations for the deferred purchase price of property and all conditional sale obligations of the Company or the Asset Seller under any title retention agreement (but excluding trade accounts payable and other accrued liabilities arising in the ordinary course of business); (g) any obligations with respect to the termination of any interest rate hedging or swap agreements; (h) any deferred revenue obligations and customer deposits; (i) all unpaid income Tax obligations of the Company for Pre-Closing Tax Periods; (j) all obligations of the type referred to in clauses (a) through (h) of any Person for the payment of which the Company is responsible or liable, directly or indirectly, as guarantor, obligor, surety or otherwise; and (k) obligations of the type referred to in clauses (a) through (i) of other Persons secured by any Lien on any property or asset of the Company or the Asset Seller, but only to the extent of the value of the property or asset that is subject to such Lien.

“Indemnitee” and “Indemnitor” are defined in Section 9.5.1.

“Independent Accountants” is defined in Section 2.8.3.

“Intellectual Property” means all rights arising from or in respect of any of the following in any jurisdiction throughout the world: (a) patents, patent applications, patent disclosures and inventions, including any continuations, divisionals, continuations-in-part, renewals and reissues for any of the foregoing (collectively “Patents”), (b) Internet domain names, trademarks, service marks, service names, trade dress rights, trade names, brand names, slogans and logos and registrations and applications for registration thereof, together with all of the goodwill associated therewith (collectively, “Marks”), (c) copyrights (registered or unregistered) and registrations and applications for registration thereof, including copyrights in mask works and registrations and applications for registration thereof (“Copyrights”), (d) any intellectual property rights in computer software (specifically excluding (i) all commercially available software, and (ii) software embedded in computers, servers, smartphones and electronic equipment owned or leased by the Company or the Asset Seller), data, data bases and documentation thereof, and (e) trade secrets and other confidential and proprietary information (including ideas, formulas, compositions, inventions (whether patentable or unpatentable and whether or not reduced to practice), know-how, manufacturing and production processes and techniques, research and development information, drawings, specifications, designs, plans, proposals, technical data, copyrightable works, financial and marketing plans and customer and supplier lists and information) (collectively, “Trade Secrets”).

“IRS” means the United States Internal Revenue Service.

“Law” means any common law decision and any federal, state, regional, local or foreign law, statute, ordinance, code, rule, regulation or Order, including, without limitation, the Foreign Corrupt Practices Act.

“Leased Real Property” means all real property leased by the Company or the Asset Seller, together with all improvements, buildings and fixtures located thereon and appurtenant rights and interests associated therewith.

“Leases” is defined in Section 4.12.1(b).

“Lien” means any lien, charge, mortgage, deed of trust, pledge, easement, encumbrance, security interest, adverse claim or any other title defect or restriction of any kind.

“Loss” or “Losses” means any and all losses, liabilities, damages, costs, expenses and penalties, actions, allegations, notices of violation, Taxes, and notices of liability and any claims in respect thereof (including, without limitation, amounts paid in settlement and reasonable costs of investigation and legal and accounting expenses).

“Material Adverse Effect” means any fact, change, event, development, effect or circumstance that, individually or in the aggregate, has had or is reasonably likely to have, a material adverse change in or effect on the business, assets or condition (financial or otherwise) of the Company or the Asset Seller; provided, that no change, circumstance, effect, event or fact shall be deemed (individually or in the aggregate) to constitute, nor shall any of the foregoing be taken into account in determining whether there has been a Material Adverse Effect, to the extent that such change, circumstance, effect, event or fact results from, arises out of, or relates to (a) a general deterioration in the economy or in the economic conditions prevalent in the industry in which the Company or the Asset Seller operates; (b) the outbreak or escalation of hostilities involving the United States, the declaration by the United States of a national emergency or war or the occurrence of any other calamity or crisis, including acts of terrorism; or (c) any change in accounting requirements or principles imposed upon the Company or the Asset Seller or the business of either or any change in Law, or the interpretation thereof.

“Material Contracts” is defined in Section 4.16(b).

“Material Customers” is defined in Section 4.19.

“Material Suppliers” is defined in Section 4.19.

“Membership Interests” is defined in the recitals to this Agreement.

“Non-Competition Period” is defined in Section 8.7.3.

“Order” is defined in Section 4.17.

“Organizational Documents” means (a) the articles or certificate of incorporation and the bylaws of a corporation; (b) the partnership agreement and any statement of partnership of a general partnership; (c) the limited partnership agreement and the certificate of limited partnership of a limited partnership, or the operating agreement and the articles of organization or certificate of formation of a limited liability company; (d) any charter or similar document adopted or filed in connection with the creation, formation or organization of a Person; (e) the declaration of trust and trust agreement of any trust; and (f) any amendment to any of the foregoing.

“Outbound Licenses” is defined in Section 4.15.

“Pay-Off Documents” is defined in Section 2.7.2.

“Permits” is defined in Section 4.11.

“Permitted Liens” means (a) mechanics’, carriers’, workmen’s, repairmen’s or other like Liens arising or incurred in the ordinary course of business, if the underlying obligation is not delinquent or in dispute and appropriate reserves have been set aside in accordance with GAAP; (b) Liens arising under original purchase price conditional sales contracts and equipment leases with third parties entered into in the ordinary course of business under which the Company or the Asset Seller is not in default; (c) Liens for current Taxes and utilities not yet due and payable or which may hereafter be paid without penalty or which are being contested in good faith, and, in connection therewith, appropriate reserves have been set aside in accordance with GAAP; (d) easements, covenants, rights-of-way and other similar restrictions or conditions of record acceptable to Buyer; and (e) zoning, building and other similar ordinances or restrictions imposed by applicable Laws; provided that, none of (d) and (e), individually or in the aggregate, materially impairs the use or value of any asset to which it or they relate.

“Person” means an individual, a corporation, a limited liability company, a partnership, a trust, an unincorporated association, a government or any agency, instrumentality or political subdivision of a government, or any other entity or organization.

“Plan” means (a) all employee benefit plans (as defined in Section 3(3) of ERISA), (b) all bonus (including transaction bonus), incentive compensation, equity or equity-based, equity appreciation right, phantom unit, restricted unit, performance unit, employee stock ownership, stock purchase, deferred compensation, change in control, employment, noncompetition, nondisclosure, vacation, holiday, sick leave, retention, severance, retirement, savings, pension, money purchase, target benefit, cash balance, excess benefit, supplemental executive retirement, profit sharing, life insurance, cafeteria (Section 125), adoption assistance, dependent care assistance, voluntary employees beneficiary, multiple employer welfare, medical, dental, vision, severance, change in control, multiple employer welfare, supplemental unemployment compensation, accident, disability, fringe benefit, welfare benefit, paid time off, employee loan, and salary continuation plans, programs, policies, agreements, arrangements, commitments, practices, contracts, associations and understandings (written or unwritten) including, without limitation, any trust, escrow or other agreement related thereto and any similar plans, programs, policies, agreements, arrangements, commitments, practices, contracts and understandings (written or unwritten), and (c) all employee benefit plans pursuant to foreign Laws.

“Post-Closing Tax Period” means any taxable period that begins after the Closing Date; in the case of a Straddle Period, the portion of the Straddle Period that begins after the Closing Date shall constitute a Post-Closing Tax Period.

“Pre-Closing Tax Period” means any taxable period ending on or before the Closing Date; in the case of a Straddle Period, the portion of the Straddle Period that ends on and includes the Closing Date shall constitute a Pre-Closing Tax Period.

“Pre-Closing Tax Returns” is defined in Section 8.6.1.

“Preliminary Adjustment Statement” is defined in Section 2.8.1.

“Preliminary Post-Closing Adjustment” is defined in Section 2.8.1.

“Product Liability Claim” is defined in Section 4.18(b).

“Purchase Price” is defined in Section 2.2.

“Release” means any direct or indirect release, spill, pumping, pouring, emission, emptying, discharge, dispersal, injection, placing, escape, leaking, leaching, migration, dumping, deposit or Disposal on or into any building, facility or the environment, whether intentional or unintentional, known or unknown.

“Removal,” “Remedial” and “Response” actions shall include the types of activities covered by the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. § 9601, et seq., RCRA and other comparable Laws, whether the activities are those that might be taken by a Governmental Authority or those that a Governmental Authority might seek to require of third parties under “removal,” “remedial,” or other “response” actions.

“Repaid Closing Indebtedness” is defined in Section 2.7.1(b).

“Seller” and “Sellers” are defined in the preamble of this Agreement.

“Seller Ancillary Agreements” is defined in Section 3.1.

“Seller Indemnitees” is defined in Section 9.3(e).

“Sellers’ Account” is defined in Section 2.7.1.

“Sellers’ Representative” is defined in the preamble of this Agreement.

“Selling Expenses” means any and all (whether or not disclosed): (a) unpaid costs, fees and expenses of outside professionals incurred by Sellers or the Company in connection with the consummation of the transactions contemplated hereby, including all legal fees, accounting, tax, management or other similar fees, investment banking fees and expenses (including such fees and expenses payable to Sellers or their Affiliates); (b) the amount of any unpaid director or management fees or expenses related to the period of time prior to and including the Closing Date (whether accrued or unaccrued); (c) unpaid change in control, phantom equity, severance payment or other similar obligations of the Company, including, without limitation, under any agreement with any employee, director, officer, consultant or customer of the Company, that provides for any payment arising from the transactions contemplated by this Agreement; and (d) Transaction Employment Taxes.

“Straddle Period” means a taxable period that begins on or before the Closing Date and ends after the Closing Date.

“Tax” or “Taxes” means any federal, state, local, or foreign income, gross receipts, license, payroll, employment, FICA, withholding, excise, severance, stamp, occupation, premium, windfall profits, customs duties, capital stock, franchise, profits, social security (or similar), unemployment, disability, real property, personal property, sales, use, transfer, registration, value added, alternative or add-on minimum, estimated, or unclaimed property or other tax assessment or charge of any kind whatsoever imposed by any Taxing Authority, including any interest, penalty, or addition thereto, whether disputed or not and including any obligations to indemnify or otherwise assume or succeed to the Tax liability of any other Person by reason of contract (whether written or oral), assumption, transferee liability, operation of law, Section 1.1502-6 of the Treasury regulations (or any predecessor or successor thereof or any analogous or similar provision under Law) or otherwise.

“Tax Matter” is defined in Section 8.6.4.

“Tax Return” means any return, declaration, report, claim for refund, or information return or statement relating to Taxes, including any schedule or attachment thereto, and including any amendment thereof, filed or required to be filed with any Taxing Authority with respect to Taxes.

“Taxing Authority” means any domestic or foreign national, state, provincial, multi-state or municipal or other local executive, legislative or judicial government, court, tribunal, official, board, subdivision, agency, commission or authority thereof, or any other governmental body exercising any regulatory or taxing authority thereunder having jurisdiction over the assessment, determination, collection or other imposition of any Tax.

“Third-Party Claim” is defined in Section 9.5.1.

“To Sellers’ Knowledge” means (a) the actual knowledge of each of the Sellers or (b) the knowledge that such individuals would have after reasonable inquiry of (i) the Company’s or the Asset Seller’s books and records; and (ii) such individual’s direct reports.

“Transaction Employment Taxes” means the employer portion of all social security, Medicare, unemployment, and other similar employment Taxes that the Company incurs with respect to the payment of the Selling Expenses.

“Transfer Taxes” is defined in Section 8.6.5.

“Ultimate Parent” means Crawford United Corporation, an Ohio corporation and the ultimate parent company of the Buyer.

“WARN Act” means the Worker Adjustment and Retraining Notification Act, as amended, and the regulations thereunder.

“Working Capital” means, in each case, (a) the sum of the Company’s and the Asset Seller’s current assets specifically listed by account on the sample calculation of Working Capital set forth on Exhibit A attached hereto, minus (b) the sum of the Company’s and the Asset Seller’s current liabilities specifically listed by account on the sample calculation of Working Capital set forth on Exhibit A attached hereto, in all cases calculated in accordance with GAAP, subject to the Accounting Principles and Policies, as of 11:59 p.m. Eastern Standard Time.

“Working Capital Target” means an amount equal to Seven Hundred Forty-Five Thousand Dollars (\$745,000).

ARTICLE 11
Construction; Miscellaneous Provisions

11.1 Notices. Any notice to be given or delivered pursuant to this Agreement shall be ineffective unless given or delivered in writing, and shall be given or delivered in writing as follows:

(a) If to Buyer, to: MTA Acquisition Company, LLC
c/o Crawford United Corp.
10514 Dupont Avenue
Cleveland, Ohio 44108
Attention: Brian Powers
E-mail: bpowers@crawfordunited.com

With a copy to: Calfee, Halter & Griswold LLP
1405 East Sixth Street
Cleveland, Ohio 44114
Attention: Terrence F. Doyle
E-mail: tdoyle@calfee.com

(b) If to Sellers' Representative or Sellers:
Kevin Curtis
5 Ridge Top
Humacao, PR 00791

With a copy to: McCollom D'Emilio Smith Uebler LLC
2751 Centerville Road, Suite 401
Wilmington, Delaware 19808
Attention: Daniel P. McCollom
E-mail: dmccollom@mdsulaw.com

or in any case, to such other address for a party as to which notice shall have been given to Buyer and Sellers' Representative in accordance with this Section 11.1. Notices so addressed shall be deemed to have been duly given (i) on the third business day after the day of registration, if sent by registered or certified mail, postage prepaid, (ii) on the next business day following the documented acceptance thereof for next-day delivery by a national overnight air courier service, if so sent, or (iii) on the date sent by electronic mail, if electronically confirmed. Otherwise, notices shall be deemed to have been given when actually received at such address.

11.2 Entire Agreement. This Agreement, the Disclosure Schedules and the Exhibits hereto constitute the exclusive statement of the agreement among the parties hereto concerning the subject matter hereof, and supersede all other prior agreements, oral or written, among or between any of the parties hereto concerning such subject matter. All negotiations among or between any of the parties hereto are superseded by this Agreement, the Disclosure Schedules and the Exhibits hereto, and there are no representations, warranties, promises, understandings or agreements, oral or written, in relation to the subject matter hereof among or between any of the parties hereto other than those expressly set forth or expressly incorporated herein.

11.3 Modification. No amendment, modification, or waiver of this Agreement or any provision hereof, including the provisions of this sentence, shall be effective or enforceable as against a party hereto unless made in a written instrument that specifically references this Agreement and that is signed by the party waiving compliance.

11.4 Jurisdiction and Venue. Each party hereto agrees that any claim relating to this Agreement shall be brought solely in a state or federal court of competent jurisdiction located in Cuyahoga County, Ohio, and all objections to personal jurisdiction and venue in any action, suit or proceeding so commenced are hereby expressly waived by all parties hereto. The parties waive personal service of any and all process on each of them and consent that all such service of process shall be made in the manner, to the party and at the address set forth in Section 11.1 of this Agreement, and service so made shall be complete as stated in such Section. Sellers expressly acknowledges the notice and service of process to Sellers' Representative for each of them in accordance with Section 11.1 and this Section 11.4.

11.5 Binding Effect. This Agreement shall be binding upon and shall inure to the benefit of each of the parties hereto and their respective successors and permitted assigns.

11.6 Headings. The Article and Section headings used in this Agreement are intended solely for convenience of reference, do not themselves form a part of this Agreement, and may not be given effect in the interpretation or construction of this Agreement.

11.7 Number and Gender; Inclusion. Whenever the context requires in this Agreement, the masculine gender includes the feminine or neuter, the feminine gender includes the masculine or neuter, the neuter gender includes the masculine or feminine, the singular number includes the plural, and the plural number includes the singular. In every place where it is used in this Agreement, the word "including" is intended and shall be construed to mean "including, without limitation."

11.8 Counterparts. This Agreement may be executed and delivered in multiple counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument. A facsimile or other electronic copy of a signature shall be deemed an original for purposes of this Agreement.

11.9 Third Parties. Nothing in this Agreement, express or implied, is intended to or shall be construed to confer upon any Person, other than the parties hereto and their respective successors and permitted assigns, any legal or equitable right, benefit or remedy of any nature under or by reason of this Agreement, except in respect of Article 9, as it relates to the Buyer Indemnitees and the Seller Indemnitees who are not otherwise parties to this Agreement.

11.10 Time Periods. Any action required hereunder to be taken within a certain number of days shall, except as may otherwise be expressly provided herein, be taken within that number of calendar days; provided, however, that if the last day for taking such action falls on a Saturday, a Sunday, or a U.S. federal legal holiday, the period during which such action may be taken shall automatically be extended to the next Business Day.

11.11 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Ohio, without regard to the choice-of-laws or conflicts-of-laws provisions thereof.

[Signature Page Follows]

IN WITNESS WHEREOF, the parties hereto have executed and delivered this Membership Interest Purchase Agreement as of the date first written above.

BUYER:

MTA ACQUISITION COMPANY, LLC

By: _____

Its:

SELLERS' REPRESENTATIVE:

Kevin Curtis

SELLERS:

Kevin Curtis

Stacy Curtis

MACHINING TECHNOLOGY L.L.C.

By: _____

Its: _____

Exhibit A

Sample Working Capital

	February 26, 2021
Accounts Receivable	\$ 1,058,458.82
Inventory	\$ -
Prepaid Expenses	\$ 1,035.77
Total Current Assets	\$ 1,059,494.59
Current Liabilities	\$ 502,569.97
Total Current Liabilities	\$ 502,569.97
Estimated Working Capital	\$ 556,924.62
Target Working Capital	\$ 745,000.00



Conformed Copy of
CREDIT AGREEMENT

dated as of

June 1, 2017

among

CRAWFORD UNITED CORPORATION
CRAWFORD AE LLC
SUPREME ELECTRONICS CORP.
FEDERAL HOSE MANUFACTURING LLC
WAEKON CORPORATION
DATA GENOMIX LLC
CAD ENTERPRISES, INC.
MARINE PRODUCTS INTERNATIONAL LLC
KOMTEK FORGE LLC
GLOBAL-TEK-MANUFACTURING LLC
MTA ACQUISITION COMPANY

and

JPMORGAN CHASE BANK, N.A.

With First Amendment Agreement, dated July 5, 2018,
Second Amendment Agreement, dated September 30, 2019,
Third Amendment Agreement, dated December 30, 2019,
Fourth Amendment Agreement, dated January 15, 2021, and
Fifth Amendment Agreement, dated March 2, 2021

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EXHIBITS:

Exhibit A - Opinion of Counsel for the Loan Parties

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CREDIT AGREEMENT dated as of June 1, 2017 (as it may be amended or modified from time to time, this “Agreement”), among CRAWFORD UNITED CORPORATION (f/k/a Hickok Incorporated), an Ohio corporation (“Hickok”), CRAWFORD AE LLC, an Ohio limited liability company (f/k/a Hickok Acquisition AE LLC which was f/k/a Air Enterprises LLC which was f/k/a Hickok Acquisition A LLC) (“Hickok Air Enterprises”), SUPREME ELECTRONICS CORP., a Mississippi corporation (“Supreme”), FEDERAL HOSE MANUFACTURING LLC, an Ohio limited liability company (“Federal”), DATA GENOMIX LLC (f/k/a Hickok Operating LLC), an Ohio limited liability company (“Data”), WAEKON CORPORATION, an Ohio corporation (“Waekon”), CAD ENTERPRISES, INC., an Arizona corporation (“CAD”), MARINE PRODUCTS INTERNATIONAL LLC, an Ohio limited liability company (f/k/a Crawford United Acquisition Company, LLC) (“Crawford Acquisition”), KOMTEK FORGE LLC, a Massachusetts limited liability company (f/k/a KT Acquisition LLC) (“Komtek”), GLOBAL-TEK-MANUFACTURING LLC, a Puerto Rican limited liability company (“Global-Tek”, and together with Hickok, Hickok Air Enterprises, Supreme, Federal, Data, Waekon, CAD, Crawford Acquisition and Komtek, collectively, the “Borrowers”, and each individually a “Borrower”), the other Loan Parties party hereto, and JPMORGAN CHASE BANK, N.A., as Lender.

The parties hereto agree as follows:

ARTICLE I

Definitions

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

“Account” has the meaning assigned to such term in the Security Agreement.

“Account Debtor” means any Person obligated on an Account.

“Acquisition” means any transaction, or any series of related transactions, consummated on or after the Second Amendment Effective Date, by which any Loan Party (a) acquires any going business or all or substantially all of the assets of any Person, whether through purchase of assets, merger or otherwise or (b) directly or indirectly acquires (in one transaction or as the most recent transaction in a series of transactions) at least a majority (in number of votes) of the Equity Interests of a Person which has ordinary voting power for the election of directors or other similar management personnel of a Person (other than Equity Interests having such power only by reason of the happening of a contingency) or a majority of the outstanding Equity Interests of a Person.

Adjusted EBITDA means, for any period, the sum of EBITDA for such period plus, to the extent a Permitted Acquisition has been consummated during such period, Pro Forma EBITDA attributable to such Permitted Acquisition (but only that portion of Pro Forma EBITDA attributable to the portion of such period that occurred prior to the date of consummation of such Permitted Acquisition).

“Adjusted LIBOR Rate” means, with respect to any Eurodollar Borrowing for any Interest Period or for any CBRF Borrowing, an interest rate per annum (rounded upwards, if necessary, to the next 1/16 of 1%) equal to (a) the LIBOR Rate for such Interest Period multiplied by (b) the Statutory Reserve Rate.

“Adjusted One Month LIBOR Rate” means, for any day, an interest rate per annum equal to the sum of (i) 2.50% per annum plus (ii) the Adjusted LIBOR Rate for a one-month interest period on such day (or if such day is not a Business Day, the immediately preceding Business Day); provided that, for the avoidance of doubt, the Adjusted LIBOR Rate for any day shall be based on the LIBOR Screen Rate at approximately 11:00 a.m. London time on such day.

“Affiliate” means, with respect to a specified Person, another Person that directly, or indirectly through one or more intermediaries, Controls or is Controlled by or is under common Control with the specified Person.

“Air Enterprises” means Air Enterprises LLC, a Delaware limited liability company.

“Air Enterprises Acquisition” means the acquisition by Hickok Air Enterprises of substantially all of the assets of Air Enterprises on the Effective Date pursuant to the Air Enterprises Acquisition Documents.

“Air Enterprises Acquisition Documents” means the Air Enterprises Purchase Agreement and all agreements, instruments and documents executed pursuant thereto or in connection therewith, as any of the foregoing may from time to time be amended, restated or otherwise modified.

“Air Enterprises Assignment of Rights” shall mean the Assignment of Rights relating to Hickok Air Enterprises’ rights under the Air Enterprises Acquisition Documents, executed and delivered to Lender by Hickok Air Enterprises and Air Enterprises in connection with this Agreement, as the same may from time to time be amended, restated or otherwise modified.

“Air Enterprises Purchase Agreement” means that certain Asset Purchase Agreement, dated as of June 1, 2017, among Hickok Air Enterprises, Air Enterprises and certain equity holders of Air Enterprises party thereto, as amended and as the same may from time to time be further amended, restated or otherwise modified.

“Anti-Corruption Laws” means all laws, rules, and regulations of any jurisdiction applicable to any Borrower or any of its Affiliates from time to time concerning or relating to bribery or corruption.

“Applicable Rate” means, for any day, the applicable rate per annum equal to:

- (a) with respect to Revolving Loans (i) -0.25% for CBRF Loans, and (ii) 1.75% for Eurodollar Loans; and
- (b) with respect to the Term A Loan and CapEx Loans (i) 0.25% for CBRF Loans, and (ii) 2.25% for Eurodollar Loans.

“Approved Fund” has the meaning assigned to such term in Section 8.04(b).

“Availability” means, at any time, an amount equal to (a) the Revolving Commitment *minus* (b) the Revolving Exposure.

“Availability Period” means the period from and including the Effective Date to but excluding the earlier of the Revolving Credit Maturity Date and the date of termination of the Revolving Commitment.

“Banking Services” means each and any of the following bank services provided to any Loan Party or any Subsidiary by the Lender or any of its Affiliates: (a) credit cards for commercial customers (including, without limitation, “commercial credit cards” and purchasing cards), (b) stored value cards, (c) merchant processing services, and (d) treasury management services (including, without limitation, controlled disbursement, automated clearinghouse transactions, return items, any direct debit scheme or arrangement, overdrafts and interstate depository network services).

“Banking Services Obligations” means any and all obligations of the Loan Parties or their Subsidiaries, whether absolute or contingent and howsoever and whensoever created, arising, evidenced or acquired (including all renewals, extensions and modifications thereof and substitutions therefor) in connection with Banking Services.

“Bankruptcy Event” means, with respect to any Person, when such Person becomes the subject of a bankruptcy or insolvency proceeding, or has had a receiver, conservator, trustee, administrator, custodian, assignee for the benefit of creditors or similar Person charged with the reorganization or liquidation of its business appointed for it, or, in the good faith determination of the Lender, has taken any action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any such proceeding or appointment, provided that a Bankruptcy Event shall not result solely by virtue of any ownership interest, or the acquisition of any ownership interest, in such Person by a Governmental Authority or instrumentality thereof, unless such ownership interest results in or provides such Person 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 permits such Person (or such Governmental Authority or instrumentality) to reject, repudiate, disavow or disaffirm any contracts or agreements made by such Person.

“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.

“Board” means the Board of Governors of the Federal Reserve System of the U.S.

“Borrower” or “Borrowers” shall have the meaning given to such term in the opening paragraph of this Agreement.

“Borrower Representative” has the meaning assigned to such term in Section 10.01.

“Borrowing” means (a) Revolving Loans of the same Type, made, converted or continued on the same date and, in the case of Eurodollar Loans, as to which a single Interest Period is in effect, (b) Term Loans made, converted or continued on the same date and, in the case of Eurodollar Loans, as to which a single Interest Period is in effect, and (c) a CapEx Loan made, converted or continued on the same date, and, in the case of Eurodollar Loans, as to which a single Interest Period is in effect.

“Borrowing Request” means a request by the Borrower Representative for a Revolving Borrowing or CapEx Borrowing in accordance with Section 2.03.

“Burdensome Restrictions” means any consensual encumbrance or restriction of the type described in clause (a) or (b) of Section 6.10.

“Business Day” means a day (other than a Saturday or Sunday) on which banks generally are open in Ohio and/or New York for the conduct of substantially all of their commercial lending activities and on which dealings in United States dollars are carried on in the London interbank market.

“CAD” means CAD ENTERPRISES, INC., an Arizona corporation.

“CAD Acquisition” means the acquisition by Hickok of all of the Equity Interests of CAD from the CAD Seller pursuant to the terms of the CAD Acquisition Documents.

“CAD Acquisition Agreement” means that certain Share Purchase Agreement dated as of July 5, 2018, by and among Hickok (as buyer), CAD Seller, and the CAD Seller Representative, together with all exhibits and schedules thereto, as the same may be amended, modified, supplemented or restated from time to time.

“CAD Acquisition Documents” means the CAD Acquisition Agreement and all other agreements, documents and writings heretofore, now or hereafter executed, delivered, or otherwise signed in connection with or related to the CAD Acquisition Agreement, in each case as any of the foregoing may be amended, restated or otherwise modified from time to time.

“CAD Assignment of Rights” shall mean the Assignment of Rights relating to Hickok’s rights under the CAD Acquisition Documents, executed and delivered to Lender by Hickok, as the same may from time to time be amended, restated or otherwise modified.

“CAD Security Agreement” means that certain All Assets Security Agreement, dated July 5, 2018, between CAD and CAD Seller Payee], as amended, restated or otherwise modified from time to time.

“CAD Seller” means the shareholders of CAD listed on Schedule 4.2 to the CAD Acquisition Agreement.

“CAD Seller Payee” means Arvin and Cheryl Loudermilk Family, LLLP, an Arizona limited liability limited partnership.

“CAD Seller Representative” means Cheryl Loudermilk.

“CAD Subordinated Note” means the Subordinated Promissory Note, dated July 5, 2018, executed by Hickok in favor of the CAD Seller Payee in the original principal amount of \$9,000,000, as amended, restated or otherwise modified from time to time.

“CAD Subordinated Debt” means the Indebtedness of Hickok owed to the CAD Seller through the CAD Seller Payee pursuant to the CAD Subordinated Debt Documents.

“CAD Subordinated Debt Documents” means the CAD Subordinated Note, the CAD Security Agreement and the other documents, agreements, instruments and writings executed by any of the Loan Parties to the CAD Seller Payee and/or any CAD Seller in connection with or related to the CAD Subordinated Note, as any of the same may be amended, restated or otherwise modified from time to time.

“CAD Subordinated Payment Conditions” means (a) the CAD Seller Payee is not in breach or violation of the CAD Subordination Agreement, (b) no Default or Event of Default has occurred and is continuing (or has not been waived by the Lender) under this Agreement or any other Loan Document, (c) no Default or Event of Default will occur as a result of any such payment, (d) after giving effect to any such payment, Lender is satisfied that the Fixed Charge Coverage Ratio, as calculated in accordance with Section 6.12 of this Agreement, is not less than 1.45 to 1.00, as evidenced by a Compliance Certificate delivered by the Loan Parties to the Lender prior to any such payment being made, and (e) after giving effect to any such payment, Availability is greater than or equal to \$500,000.

“CAD Subordination Agreement” means the Debt and Lien Subordination Agreement entered into among the Loan Parties, the CAD Seller Payee, and the Lender (as senior lender) in connection with the CAD Subordinated Debt, as such agreement may be amended, restated or otherwise modified from time to time.

“CapEx Commitment” means the commitment of the Lender, during the CapEx Commitment Period, to make CapEx Loans to the Borrowers and to convert CapEx Loans to CapEx Term Loans, up to the CapEx Maximum Amount (or such lesser amount as shall be determined pursuant to Section 2.01(c) hereof).

“CapEx Commitment Period” means the period from the First Amendment Effective Date to the CapEx Conversion Date, or such earlier date on which the Commitment shall have been terminated pursuant to Article VII hereof.

“CapEx Conversion Date” means the earlier to occur of (a) the date that the amount of CapEx Loans made to Borrowers equal the CapEx Maximum Amount, or (b) July 5, 2019.

“CapEx Draw Request” means a request form, substantially in the form of the attached Exhibit E.

“CapEx Exposure” means, at any time, the sum of the outstanding principal amount of CapEx Loans and CapEx Term Loans at such time.

“CapEx Loan” means a Loan made pursuant to Section 2.01(c) hereof.

“CapEx Maximum Amount” shall mean \$1,000,000.

“CapEx Term Loan” shall mean any CapEx Loan or CapEx Loans that have been converted to a term loan pursuant to Section 2.02(c) hereof.

“Capital Expenditures” means, without duplication, any expenditure or commitment to expend money for any purchase or other acquisition of any asset which would be classified as a fixed or capital asset on a consolidated balance sheet of the Company and its Subsidiaries prepared in accordance with GAAP but excluding in each case any such expenditures that (i) are made to restore, repair, replace or rebuild property to the condition of such property immediately prior to any casualty event, to the extent such expenditure is made with insurance proceeds, condemnation awards or damage recover proceeds relating to any such casualty event or (ii) are financed with the proceeds of any Disposition of fixed or capital assets to the extent such expenditure is permitted under Section 6.05 hereof.

“Capital Lease Obligations” of any Person means the obligations of such Person to pay rent or other amounts under any lease of (or other arrangement conveying the right to use) real or personal property, or a combination thereof, which obligations are required to be classified and accounted for as capital leases on a balance sheet of such Person under GAAP, and the amount of such obligations shall be the capitalized amount thereof determined in accordance with GAAP.

“CB Floating Rate” means the Prime Rate; provided that the CB Floating Rate shall never be less than the Adjusted One Month LIBOR Rate on such day (or if such day is not a Business Day, the immediately preceding Business Day). Any change in the CB Floating Rate due to a change in the Prime Rate or the Adjusted One Month LIBOR Rate shall be effective from and including the effective date of such change in the Prime Rate or the Adjusted One Month LIBOR Rate, respectively.

“CBFR”, 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 CB Floating Rate.

“Change in Control” means (a) the acquisition of ownership, directly or indirectly, beneficially or of record, by any Person or group (within the meaning of the Securities Exchange Act of 1934 and the rules of the SEC thereunder as in effect on the date hereof) of Equity Interests representing more than 50% of the aggregate ordinary voting power represented by the issued and outstanding Equity Interests of the Company; (b) occupation at any time of a majority of the seats (other than vacant seats) on the board of directors of the Company by Persons who were neither (i) directors of the Company on the date of this Agreement, (ii) nominated, appointed or approved by the board of directors of the Company nor (iii) nominated, appointed or approved by directors so nominated, appointed or approved; or (c) the Company shall cease to own, free and clear of all Liens or other encumbrances, 100% of the outstanding voting Equity Interests of the other Borrowers on a fully diluted basis.

“Change in Law” means the occurrence after the date of this Agreement of any of the following: (a) the adoption of or taking effect of any law, rule, regulation or treaty, (b) any change in any law, rule, regulation or treaty or in the administration, interpretation or application thereof by any Governmental Authority or (c) compliance by the Lender (or, for purposes of Section 2.13(b), by any lending office of the Lender or by the Lender’s holding company, if any) with any request, guideline, requirement or directive (whether or not having the force of law) of any Governmental Authority made or issued after the date of this Agreement; provided that, notwithstanding anything herein to the contrary, (x) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, guidelines, requirements or directives thereunder or issued in connection therewith or in the 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 the U.S. or foreign regulatory authorities, in each case pursuant to Basel III, shall in each case be deemed to be a “Change in Law”, regardless of the date enacted, adopted, issued or implemented.

“Charges” has the meaning assigned to such term in Section 8.16.

“Class”, when used in reference to (a) any Loan or Borrowing, refers to whether such Loan, or the Loans comprising such Borrowing, are Revolving Loans, CapEx Loans or a Term A Loan, and (b) any Commitment, refers to whether such Commitment is a Revolving Commitment, a CapEx Commitment or a Term A Commitment.

“Code” means the Internal Revenue Code of 1986, as amended from time to time.

“Collateral” means any and all property owned, leased or operated by a Person covered by the Collateral Documents and any and all other property of any Loan Party, now existing or hereafter acquired, that is at any time, becomes or is intended to be, subject to a security interest or Lien in favor of the Lender, on behalf of the Secured Parties, to secure the Secured Obligations.

“Collateral Access Agreement” has the meaning assigned to such term in the Security Agreement.

“Collateral Documents” means, collectively, the Security Agreement, the Air Enterprises Assignment of Rights, the CAD Assignment of Rights, and any other agreements, instruments and documents executed in connection with this Agreement that are intended to create, perfect or evidence Liens to secure the Secured Obligations, including, without limitation, all other security agreements, pledge agreements, mortgages, deeds of trust, loan agreements, notes, guarantees, subordination agreements, pledges, powers of attorney, consents, assignments, contracts, fee letters, notices, leases, financing statements and all other written matter whether theretofore, now or hereafter executed by any Loan Party and delivered to the Lender.

“Commercial LC Exposure” means, at any time, the sum of (a) the aggregate undrawn amount of all outstanding commercial Letters of Credit *plus* (b) the aggregate amount of all LC Disbursements relating to commercial Letters of Credit that have not yet been reimbursed by or on behalf of the Borrowers.

“Commitment” means the sum of the Revolving Commitment, the Term Commitments and the CapEx Commitment.

“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.

“Commitment Fee Applicable Rate” means 0.25%.

“Company” means Hickok.

“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.

“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.

“Default” means any event or condition which constitutes an Event of Default or which upon notice, lapse of time or both would, unless cured or waived, become an Event of Default.

“Disclosed Matters” means the actions, suits, proceedings and environmental matters disclosed in Schedule 3.06.

“Distributions” means all dividends and other distributions made to shareholders, partners, owners or members, as the case may be, other than salary, bonuses, and other compensation for services expended in the current accounting period.

“Disposition” or “Dispose” means the sale, transfer, license, lease or other disposition (in one transaction or in a series of transactions and whether effected pursuant to a Division or otherwise) of any property by any Person (including any sale and leaseback transaction and any issuance of Equity Interests by a Subsidiary of such Person), including any sale, assignment, transfer or other disposal, with or without recourse, of any notes or accounts receivable or any rights and claims associated therewith.

“Dividing Person” has the meaning assigned to it in the definition of “Division.”

“Division” means the division of the assets, liabilities and/or obligations of a Person (the “Dividing Person”) among two or more Persons (whether pursuant to a “plan of division” or similar arrangement), which may or may not include the Dividing Person and pursuant to which the Dividing Person may or may not survive.

“Division Successor” means any Person that, upon the consummation of a Division of a Dividing Person, holds all or any portion of the assets, liabilities and/or obligations previously held by such Dividing Person immediately prior to the consummation of such Division. A Dividing Person which retains any of its assets, liabilities and/or obligations after a Division shall be deemed a Division Successor upon the occurrence of such Division.

“Document” has the meaning assigned to such term in the Security Agreement.

“Dollars”, “dollars” or “\$” refers to lawful money of the U.S.

“EBITDA” means, for any period, Net Income for such period *plus* (a) without duplication and to the extent deducted in determining Net Income for such period, the sum of (i) Interest Expense for such period, (ii) income tax expense for such period, (iii) all amounts attributable to depreciation and amortization expense for such period, (iv) any non-recurring non-cash charges for such period, (v) any non-recurring fees, cash charges and other cash expenses (including severance costs) made or incurred in connection with the Transactions occurring on the Effective Date that are paid or otherwise accounted for within 90 days of the consummation of such Transactions in an amount not to exceed \$1,000,000, (vi) any non-recurring fees, cash charges and other cash expenses (including severance costs) made or incurred in connection with Permitted Acquisitions or sales or other divestitures of any businesses permitted under this Agreement that are paid or otherwise accounted for within 90 days of the consummation of any such Permitted Acquisitions or sale or other divestiture in an aggregate amount not to exceed \$1,250,000 for such period, (vii) any non-recurring fees, cash charges and other cash expenses (including severance costs) made or incurred in connection with the CAD Acquisition that are paid or otherwise accounted for within 90 days of the consummation of the CAD Acquisition in an amount not to exceed \$1,000,000, (viii) one-time, non-recurring fees, cash charges and other cash expenses in connection with restructurings in an amount not to exceed \$1,250,000 for such period, (ix) non-cash expenses related to stock options incurred during such period in accordance with Financial Accounting Standards Board Accounting Standards Codification Topic No. 718 – Compensation – Stock Compensation, (x) goodwill and other intangible asset impairment charges, (xi) any net losses associated with discontinued operations or disposed of businesses, *minus* (b) without duplication and to the extent included in Net Income, the sum of (i) any non-recurring non-cash gains for such period, plus (ii) any net gains associated with discontinued operations or disposed of businesses, all calculated for the Company and its Subsidiaries on a consolidated basis in accordance with GAAP.

“ECP” means an “eligible contract participant” as defined in Section 1(a)(18) of the Commodity Exchange Act or any regulations promulgated thereunder and the applicable rules issued by the Commodity Futures Trading Commission and/or the SEC.

“Effective Date” means the date on which the conditions specified in Section 4.01 are satisfied (or waived in accordance with Section 8.02).

“Electronic Signature” means an electronic sound, symbol, or process attached to, or associated with, a contract or other record and adopted by a Person with the intent to sign, authenticate or accept such contract or record.

“Electronic System” means any electronic system, including e-mail, e-fax, web portal access for the Borrower, Intralinks®, ClearPar®, Debt Domain, Syndtrak and any other Internet or extranet-based site, whether such electronic system is owned, operated or hosted by the Lender and any of its respective Related Parties or any other Person, providing for access to data protected by passcodes or other security system.

“Environmental Laws” means all laws, rules, regulations, codes, ordinances, orders, decrees, judgments, injunctions, notices or binding agreements issued, promulgated or entered into by any Governmental Authority, relating in any way to the environment, preservation or reclamation of natural resources, the management, Release or threatened Release of any Hazardous Material or to health and safety matters.

“Environmental Liability” means any liability, contingent or otherwise (including any liability for damages, costs of environmental remediation, fines, penalties or indemnities), of a Borrower or any Subsidiary directly or indirectly resulting from or based upon (a) any violation of any Environmental Law, (b) the generation, use, handling, transportation, storage, treatment or disposal of any Hazardous Materials, (c) any exposure to any Hazardous Materials, (d) the Release or threatened Release of any Hazardous Materials into the environment or (e) any contract, agreement or other consensual arrangement pursuant to which liability is assumed or imposed with respect to any of the foregoing.

“Equipment” has the meaning assigned to such term in the Security Agreement.

“Equity Interests” means shares of capital stock, partnership interests, membership interests in a limited liability company, beneficial interests in a trust or other equity ownership interests in a Person, and any warrants, options or other rights entitling the holder thereof to purchase or acquire any of the foregoing.

“ERISA” means the Employee Retirement Income Security Act of 1974, as amended from time to time, and the rules and regulations promulgated thereunder.

“ERISA Affiliate” means any trade or business (whether or not incorporated) that, together with a Borrower, is treated as a single employer under Section 414(b) or (c) of the Code or, Section 4001 (14) of ERISA or, solely for purposes of Section 302 of ERISA and Section 412 of the Code, is treated as a single employer under Section 414 (b), (c), (m), (o) or (t) of the Code.

“ERISA Event” means (a) any “reportable event”, as defined in Section 4043 of ERISA or the regulations issued thereunder, with respect to a Plan (other than an event for which the 30-day notice period is waived); (b) the failure to satisfy the “minimum funding standard” (as defined in Section 412 of the Code or Section 302 of ERISA) with respect to any Plan, whether or not waived; (c) the filing pursuant to Section 412(c) of the Code or Section 302(c) of ERISA of an application for a waiver of the minimum funding standard with respect to any Plan; (d) the incurrence by any Borrower or any ERISA Affiliate of any liability under Title IV of ERISA with respect to the termination of any Plan; (e) the receipt by any Borrower or any ERISA Affiliate from the PBGC or a plan administrator of any notice relating to an intention to terminate any Plan or Plans under Section 4041, Section 4042 or Section 4041A of ERISA or to appoint a trustee to administer any Plan; (f) the incurrence by any Borrower or any ERISA Affiliate of any liability with respect to the withdrawal or partial withdrawal of any Borrower or any ERISA Affiliate from any Plan or Multiemployer Plan; or (g) the receipt by any Borrower or any ERISA Affiliate of any notice concerning the imposition upon any Borrower or any ERISA Affiliate of Withdrawal Liability or a determination that a Multiemployer Plan is, or is expected to be, insolvent or in reorganization, within the meaning of Title IV of ERISA.

“Eurodollar”, 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 Adjusted LIBOR Rate.

“Event of Default” has the meaning assigned to such term in Article VII.

“Excluded Collateral” has the meaning assigned to such term in the Security Agreement.

“Excluded Subsidiary” means a joint venture entity owned by a Loan Party in connection with a Permitted Joint Venture Investment where such Loan Party’s aggregate investment (whether in a single investment or a series of investments) in such joint venture entity does not exceed \$625,000.

“Excluded Swap Obligation” means, with respect to any Guarantor, any Swap Obligation if, and to the extent that, all or a portion of the Guarantee of such Guarantor of, or the grant by such Guarantor of a security interest to secure, such Swap Obligation (or any Guarantee 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 Guarantor’s failure for any reason to constitute an ECP at the time the Guarantee of such Guarantor or the grant of such security interest becomes or would become 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 Guarantee or security interest is or becomes illegal.

“Excluded Taxes” means any of the following Taxes imposed on or with respect to the Lender or required to be withheld or deducted from a payment to the Lender: (a) Taxes imposed on or measured by net income (however denominated), franchise Taxes, and branch profits Taxes, in each case, (i) imposed as a result of the Lender being organized under the laws of, or having its principal office or its applicable lending office located in, the jurisdiction imposing such Tax (or any political subdivision thereof) or (ii) that are Other Connection Taxes, (b) U.S. federal withholding Taxes imposed on amounts payable to or for the account of the Lender with respect to an applicable interest in a Loan, Letter of Credit or Commitment pursuant to a law in effect on the date on which (i) the Lender acquires such interest in the Loan, Letter of Credit or Commitment or (ii) the Lender changes its lending office, except in each case to the extent that, pursuant to Section 2.15, amounts with respect to such Taxes were payable either to the Lender’s assignor immediately before the Lender acquired the applicable interest in such Loan, Letter of Credit or Commitment or to the Lender immediately before it changed its lending office, and (c) any U.S. federal withholding Taxes imposed under FATCA.

“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 and any agreement entered into pursuant to Section 1471(b)(1) of the Code.

“Federal Funds Effective Rate” means, for any day, the rate calculated by the NYFRB based on such day’s federal funds transactions by depository institutions (as determined in such manner as the NYFRB shall set forth on its public website from time to time) and published on the next succeeding Business Day by the NYFRB as the effective federal funds rate, provided that, if the Federal Funds Effective Rate as so determined would be less than zero, such rate shall be deemed to zero for the purposes of this Agreement.

“Federal Reserve Board” means the Board of Governors of the Federal Reserve System of the United States of America.

“FFC” means First Francis Company Inc., an Ohio corporation.

“FFC Security Agreement” means that certain Amended and Restated All Assets Security Agreement, dated as of January 15, 2021, among Hickok Incorporated, Federal, Supreme, Komtek and FFC.

“FFC Subordinated Debt” means the Indebtedness of certain of the Loan Parties owed to FFC pursuant to the FFC Subordinated Debt Documents in the aggregate current principal amount, as of the Fourth Amendment Effective Date, of \$3,779,784.47.

“FFC Subordinated Debt Documents” means the FFC Subordinated Note, the FFC Security Agreement and the other documents, agreements, instruments and writings executed by any of the Loan Parties to FFC in connection with or related to the FFC Subordinated Debt, as any of the same may be amended, restated or otherwise modified from time to time.

“FFC Subordinated Payment Conditions” means (a) FFC is not in breach or violation of the FFC Subordination Agreement, (b) no Default or Event of Default has occurred and is continuing (or has not been waived by the Lender) under this Agreement or any other Loan Document, (c) no Default or Event of Default will occur as a result of any such payment, (d) after giving effect to any such payment, Lender is satisfied that the Fixed Charge Coverage Ratio, as calculated in accordance with Section 6.12 of this Agreement, is not less than 1.45 to 1.00, as evidenced by a Compliance Certificate delivered by the Loan Parties to the Lender prior to any such payment being made, and (e) after giving effect to any such payment, Availability is greater than or equal to \$500,000.

“FFC Subordinated Note” means that certain Amended and Restated Promissory Note, dated as of January 15, 2021, by Hickok in favor of FFC, in the original principal amount of \$3,779,784.47, which such note is an amendment and restatement and consolidation of: (i) that certain Promissory Note, dated July 1, 2016, by Hickok Incorporated in favor of First Francis Company Inc., in the original principal amount of \$2,768,662, (ii) that certain Promissory Note, dated July 1, 2016, by Hickok Incorporated in favor of First Francis Company Inc., in the original principal amount of \$2,000,000, (iii) that certain Revolving Note, dated January 21, 2014, by KomTek in favor of First Francis Company Inc., in the original principal amount of \$1,500,000, and (iv) that certain Revolving Note, dated April 31, 2014, by KomTek in favor of First Francis Company Inc., in the original principal amount of \$1,000,000.

“FFC Subordination Agreement” means the Amended and Restated Subordination Agreement entered into as of the Fourth Amendment Effective Date among the Loan Parties, FFC (as subordinated lender), and the Lender (as senior lender) in connection with the FFC Subordinated Debt, as such agreement may be amended, restated or otherwise modified from time to time.

“Fifth Amendment Effective Date” means March 2, 2021.

“Financial Officer” means the chief financial officer, principal accounting officer, treasurer or controller of a Borrower.

“Financial Statements” has the meaning assigned to such term in Section 5.01.

“First Amendment Effective Date” means July 5, 2018.

“Fixed Charges” means, for any period, without duplication, cash Interest Expense, *plus* scheduled principal payments on Indebtedness (excluding Subordinated Indebtedness) actually made, *plus* principal payments made after the Effective Date on Subordinated Indebtedness, *plus* Distributions, *plus* scheduled Capital Lease Obligation payments, all calculated for the Company and its Subsidiaries on a consolidated basis in accordance with GAAP.

“Fixed Charge Coverage Ratio” means, for any period, the ratio of (a) Adjusted EBITDA *minus* (i) income tax expense for such period and (ii) Maintenance Capital Expenditures to (b) Fixed Charges, all calculated for the Company and its Subsidiaries on a consolidated basis in accordance with GAAP.

“Fixtures” has the meaning assigned to such term in the Security Agreement.

“Fourth Amendment Effective Date” means January 15, 2021.

“Funding Account” has the meaning assigned to such term in Section 4.01(h).

“GAAP” means generally accepted accounting principles in the U.S.

“Global-Tek” shall have the meaning given to such term in the opening paragraph of this Agreement.

“Governmental Authority” means the government of the U.S., any other nation or any political subdivision thereof, whether state or local, 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.

“GT/MT Acquisition” means the acquisition by MTA Acquisition of (a) all of the Equity Interests of Global Tek and (b) substantially all of the assets of Machining Technology L.L.C., a Colorado limited liability company, from the respective GT/MT Sellers pursuant to the terms of the GT/MT Acquisition Documents.

“GT/MT Acquisition Agreement” means that certain Membership Interest and Asset Purchase Agreement, dated on or about the Fifth Amendment Effective Date, among MTA Acquisition, the GT/MT Sellers and the GT/MT Seller Representative, together with all exhibits and schedules thereto, as the same may be amended, modified, supplemented or restated from time to time.

“GT/MT Acquisition Documents” means the GT/MT Acquisition Agreement and all other agreements, documents and writings heretofore, now or hereafter executed, delivered, or otherwise signed in connection with or related to the GT/MT Acquisition Agreement, in each case as any of the foregoing may be amended, restated or otherwise modified from time to time.

“GT/MT Seller Representative” means Kevin Curtis, an individual, in his capacity as the representative of the GT/MT Sellers.

“GT/MT Sellers” means Kevin Curtis, an individual, and Stacy Curtis, an individual (as the membership interests sellers of Global-Tek), and Machining Technology L.L.C., a Colorado limited liability company (as the asset seller);

“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 obligation of any other Person (the “primary obligor”) in any manner, whether directly or indirectly, and including any obligation of the guarantor, direct or indirect, (a) to purchase or pay (or advance or supply funds for the purchase or payment of) such Indebtedness or other 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 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 obligation or (d) as an account party in respect of any letter of credit or letter of guaranty issued to support such Indebtedness or obligation; provided that the term Guarantee shall not include (i) warranties or indemnities made in trade contracts, asset sale agreements, acquisition agreements, commitment letters, engagement letters and brokerage and deposit agreements in the ordinary course of business and not otherwise prohibited hereunder, and warranties and indemnities to lenders in any documents evidencing Indebtedness permitted pursuant to Section 6.01 with respect to the guarantor, (ii) any indemnities made in connection with liability of a Person’s directors, officers and employees in their capacities as such as permitted by applicable law so long as the same is in the ordinary course of business and consistent with such Person’s past practices and, (iii) any contingent liability arising from the endorsement of negotiable or other instruments for deposit or collection in the ordinary course of business, and (iv) any continuing liability of Hickok or its Subsidiaries as a lessee under a real property or equipment lease after such lease has been assigned or subleased by such Person.

“Guaranteed Obligations” has the meaning assigned to such term in Section 9.01.

“Guarantors” means all Loan Guarantors and all non-Loan Parties who have delivered an Obligation Guaranty, and the term “Guarantor” means each or any one of them individually.

“Hazardous Materials” means: (a) any substance, material, or waste that is included within the definitions of “hazardous substances,” “hazardous materials,” “hazardous waste,” “toxic substances,” “toxic materials,” “toxic waste,” or words of similar import in any Environmental Law; (b) those substances listed as hazardous substances by the United States Department of Transportation (or any successor agency) (49 C.F.R. 172.101 and amendments thereto) or by the Environmental Protection Agency (or any successor agency) (40 C.F.R. Part 302 and amendments thereto); and (c) any substance, material, or waste that is petroleum, petroleum-related, or a petroleum by-product, asbestos or asbestos-containing material, polychlorinated biphenyls, flammable, explosive, radioactive, freon gas, radon, or a pesticide, herbicide, or any other agricultural chemical.

“Hickok Air Enterprises Name Change” shall mean the name change which will occur on or about the date hereof, whereby Hickok Air Enterprises will change its name to Air Enterprises, LLC.

“Hickok Air Enterprises Name Change Documents” shall mean the documentation filed with the Secretary of State of the State of Delaware in order to effectuate the Hickok Air Enterprises Name Change and all other agreements, instruments and documents executed pursuant thereto or in connection therewith.

“Indebtedness” of any Person means, without duplication, (a) all obligations of such Person for borrowed money, (b) all obligations of such Person evidenced by bonds, debentures, notes or similar instruments, (c) all obligations of such Person upon which interest charges are customarily paid, (d) all obligations of such Person under conditional sale or other title retention agreements relating to property acquired by such Person, (e) all obligations of such Person in respect of the deferred purchase price of property or services (excluding current accounts payable incurred in the ordinary course of business), (f) all Indebtedness of others secured by (or for which the holder of such Indebtedness has an existing right, contingent or otherwise, to be secured by) any Lien on property owned or acquired by such Person, whether or not the Indebtedness secured thereby has been assumed, provided, in the case of any such obligations that are non-recourse to such Person, that the amount of obligations counted as Indebtedness shall be no greater than the fair market value of the assets subject to such Lien, (g) all Guarantees by such Person of Indebtedness of others, (h) all Capital Lease Obligations of such Person, (i) all obligations, contingent or otherwise, of such Person as an account party in respect of letters of credit and letters of guaranty, (j) all obligations, contingent or otherwise, of such Person in respect of bankers’ acceptances, and (k) obligations under any liquidated earn-out and (l) any other Off-Balance Sheet Liability and (m) obligations, whether absolute or contingent and howsoever and whensoever created, arising, evidenced or acquired (including all renewals, extensions and modifications thereof and substitutions therefor), under (i) any and all Swap Agreements, and (ii) any and all cancellations, buy backs, reversals, terminations or assignments of any Swap Agreement transaction. The Indebtedness of any Person shall include the Indebtedness of any other entity (including any partnership in which such Person is a general partner) to the extent such Person is liable therefor as a result of such Person’s ownership interest in or other relationship with such entity, except to the extent the terms of such Indebtedness provide that such Person is not liable therefor.

“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 the foregoing clause (a), Other Taxes.

“Indemnitee” has the meaning assigned to such term in Section 8.03(b).

“Information” has the meaning assigned to such term in Section 8.12.

“Interest Election Request” means a request by the Borrower Representative to convert or continue a Borrowing in accordance with Section 2.06.

“Interest Expense” means, with reference to any period, total interest expense (including that attributable to Capital Lease Obligations) of the Company and its Subsidiaries for such period with respect to all outstanding Indebtedness of the Company and its Subsidiaries (including all commissions, discounts and other fees and charges owed with respect to letters of credit and bankers’ acceptances and net costs under Swap Agreements in respect of interest rates, to the extent such net costs are allocable to such period in accordance with GAAP), calculated for the Company and its Subsidiaries on a consolidated basis for such period in accordance with GAAP.

“Interest Payment Date” means (a) with respect to any CBFR Loan, the first Business Day of each calendar month and the Revolving Credit Maturity Date or the Term A Maturity Date, as applicable, and (b) with respect to any Eurodollar Loan, the last day of the Interest Period applicable to the Borrowing of which such Loan is a part and the Revolving Credit Maturity Date or the Term A Maturity Date, as applicable.

“Interest Period” means, with respect to any Eurodollar Borrowing, each consecutive one month period, the first of which shall commence on the date of this Agreement, ending on the day which corresponds numerically to such date one (1) month thereafter, provided, however, that if there is no such numerically corresponding day in such first succeeding month, such Interest Period shall end on the last Business Day of such first succeeding month. If an Interest Period would otherwise end on a day which is not a Business Day, such Interest Period shall end on the next succeeding Business Day, provided, however, that if said next succeeding Business Day falls in a new calendar month, such Interest Period shall end on the immediately preceding Business Day.

“Interpolated Rate” means, at any time, for any Interest Period, the rate per annum (rounded to the same number of decimal places as the LIBOR Screen Rate) determined by the Lender (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) the LIBOR Screen Rate for the longest period (for which the LIBOR Screen Rate is available) that is shorter than the Impacted Interest Period and (b) the LIBOR Screen Rate for the shortest period (for which the LIBOR Screen Rate is available) that exceeds the Impacted Interest Period, in each case, at such time; provided that, if any Interpolated Rate shall be less than zero, such rate shall be deemed to be zero for purposes of this Agreement.

“Inventory” has the meaning assigned to such term in the Security Agreement.

“IRS” means the United States Internal Revenue Service.

“Joinder Agreement” means a Joinder Agreement in substantially the form of Exhibit D.

“KomTek” shall have the meaning given to such term in the opening paragraph of this Agreement.

“LC Collateral Account” has the meaning assigned to such term in Section 2.04(h).

“LC Disbursement” means any payment made by the Lender pursuant to a Letter of Credit.

“LC Exposure” means, at any time, the sum of the Commercial LC Exposure and the Standby LC Exposure at such time.

“LC Sublimit” means \$3,000,000.

“Lender” means JPMorgan Chase Bank, N.A., its successors and assigns.

“Letters of Credit” means the letters of credit issued pursuant to this Agreement, and the term “Letter of Credit” means any one of them or each of them singularly, as the context may require.

“LIBOR Rate” means, with respect to any Eurodollar Borrowing for any applicable Interest Period or for any CBFRR Borrowing, the LIBOR Screen Rate at approximately 11:00 a.m., London time, two (2) Business Days prior to the commencement of such Interest Period; provided that, if the LIBOR Screen Rate shall not be available at such time for such Interest Period (an “Impacted Interest Period”), then the LIBOR Rate shall be the Interpolated Rate.

“LIBOR Screen Rate” means, for any day and time, with respect to any Eurodollar Borrowing for any Interest Period or for any CBFRR Borrowing, the London interbank offered rate as administered by ICE Benchmark Administration (or any other Person that takes over the administration of such rate for Dollars) for a period equal in length to such Interest Period as displayed on such day and time on pages LIBOR01 or LIBOR02 of the Reuters screen that displays such rate (or, in the event such rate does not appear on a Reuters page or screen, on any successor or substitute page on such screen that displays such rate, or on the appropriate page of such other information service that publishes such rate from time to time as selected by the Lender in its reasonable discretion); provided that if the LIBOR Screen Rate as so determined would be less than zero, such rate shall be deemed to be zero for the purposes of this Agreement.

“Lien” means, with respect to any asset, (a) any mortgage, deed of trust, lien, pledge, hypothecation, encumbrance, charge or security interest in, on or of such asset, (b) the interest of a vendor or a lessor under any conditional sale agreement, capital lease or title retention agreement (or any financing lease having substantially the same economic effect as any of the foregoing) relating to such asset and (c) in the case of securities, any purchase option, call or similar right of a third party with respect to such securities.

“Loan Documents” means, collectively, this Agreement, each promissory note issued pursuant to this Agreement, any Letter of Credit application, each Collateral Document, the Loan Guaranty, any Obligation Guaranty, the FFC Subordination Agreement, the CAD Subordination Agreement, and each other agreement, instrument, document and certificate identified in Section 4.01 executed and delivered to, or in favor of, the Lender and including each other pledge, power of attorney, consent, assignment, contract, notice, letter of credit agreement, letter of credit application and each other written matter whether heretofore, now or hereafter executed by or on behalf of any Loan Party, or any employee of any Loan Party, and delivered to the Lender in connection with this Agreement or the transactions contemplated hereby. Any reference in this Agreement or any other Loan Document to a Loan Document shall include all appendices, exhibits or schedules thereto, and all amendments, restatements, supplements or other modifications thereto, and shall refer to this Agreement or such Loan Document as the same may be in effect at any and all times such reference becomes operative.

“Loan Guarantor” means each Loan Party other than the Borrowers’ foreign Subsidiaries.

“Loan Guaranty” means Article IX of this Agreement.

“Loan Parties” means, collectively, the Borrowers, the Borrowers’ domestic Subsidiaries and any other Person who becomes a party to this Agreement pursuant to a Joinder Agreement and their successors and assigns, and the term “Loan Party” shall mean any one of them or all of them individually, as the context may require.

“Loans” means the loans and advances made by the Lender pursuant to this Agreement.

“Maintenance Capital Expenditures” means Capital Expenditures that are made in connection with the replacement, substitution, restoration or repair of existing assets in order to maintain existing operational capacities (it being agreed that Maintenance Capital Expenditures does not include Capital Expenditures made in connection with an acquisition of a new asset that seeks to expand existing operational capacities).

“Material Adverse Effect” means a material adverse effect on (a) the business, assets, operations, prospects or condition, financial or otherwise, of the Company and its Subsidiaries taken as a whole, (b) the ability of any Loan Party to perform any of its obligations under the Loan Documents to which it is a party, (c) the Collateral, or the Lender’s Liens (on behalf of itself and the other Secured Parties) on the Collateral or the priority of such Liens, or (d) the rights of or benefits available to the Lender under any of the Loan Documents.

“Material Indebtedness” means Indebtedness (other than the Loans and Letters of Credit), or obligations in respect of one or more Swap Agreements, of any one or more of the Loan Parties in an aggregate principal amount exceeding \$1,250,000. For purposes of determining Material Indebtedness, the “principal amount of the obligations” of the Loan Parties in respect of any Swap Agreement at any time shall be the maximum aggregate amount (giving effect to any netting agreements) that such Loan Party would be required to pay if such Swap Agreement were terminated at such time.

“Maximum Rate” has the meaning assigned to such term in Section 8.16.

“Moody’s” means Moody’s Investors Service, Inc.

“Mortgage” means any mortgage, deed of trust or other agreement which conveys or evidences a Lien in favor of the Lender, on real property of a Loan Party, including any amendment, restatement, modification or supplement thereto.

“MTA Acquisition” means MTA ACQUISITION COMPANY, LLC, a Delaware limited liability company.

“Multiemployer Plan” means a multiemployer plan as defined in Section 4001(a)(3) of ERISA.

“Net Income” means, for any period, the consolidated net income (or loss) determined for the Company and its Subsidiaries, on a consolidated basis in accordance with GAAP; provided that there shall be excluded (a) the income (or deficit) of any Person accrued prior to the date it becomes a Subsidiary or is merged into or consolidated with the Company or any Subsidiary, and (b) the income (or deficit) of any Person (other than a Subsidiary) in which the Company or any Subsidiary has an ownership interest, except to the extent that any such income is actually received by the Company or such Subsidiary in the form of dividends or similar distributions, and (c) the undistributed earnings of any Subsidiary, to the extent that the declaration or payment of dividends or similar distributions by such Subsidiary is not at the time permitted by the terms of any contractual obligation (other than under any Loan Document) or Requirement of Law applicable to such Subsidiary.

“Net Proceeds” means, with respect to any event, (a) the cash proceeds received in respect of such event including (i) any cash received in respect of any non-cash proceeds (including any cash payments received by way of deferred payment of principal pursuant to a note or installment receivable or purchase price adjustment receivable or otherwise, but excluding any interest payments), but only as and when received, (ii) in the case of a casualty, insurance proceeds and (iii) in the case of a condemnation or similar event, condemnation awards and similar payments, minus (b) the sum of (i) all reasonable fees and out-of-pocket expenses paid to third parties (other than Affiliates) in connection with such event, (ii) in the case of a sale, transfer or other disposition of an asset (including pursuant to a sale and leaseback transaction or a casualty or a condemnation or similar proceeding), the amount of all payments required to be made as a result of such event to repay Indebtedness (other than Loans) secured by such asset or otherwise subject to mandatory prepayment as a result of such event and (iii) the amount of all taxes paid (or reasonably estimated to be payable) and the amount of any reserves established to fund contingent liabilities reasonably estimated to be payable, in each case during the year that such event occurred or the next succeeding year and that are directly attributable to such event (as determined reasonably and in good faith by a Financial Officer of the Borrower Representative).

“NYFRB” means the Federal Reserve Bank of New York.

“Obligated Party” has the meaning assigned to such term in Section 9.02.

“Obligation Guaranty” means any Guarantee of all or any portion of the Secured Obligations executed and delivered to the Lender for the benefit of the Secured Parties by a guarantor who is not a Loan Party.

“Obligations” “ means all unpaid principal of and accrued and unpaid interest on the Loans, all LC Exposure, all accrued and unpaid fees and all expenses, reimbursements, indemnities and other obligations and indebtedness (including interest and fees accruing during the pendency of any bankruptcy, insolvency, receivership or other similar proceeding, regardless of whether allowed or allowable in such proceeding), obligations and liabilities of any of the Loan Parties to the Lender or any indemnified party, individually or collectively, existing on the Effective Date or arising thereafter, direct or indirect, joint or several, absolute or contingent, matured or unmatured, liquidated or unliquidated, secured or unsecured, arising by contract, operation of law or otherwise, arising or incurred under this Agreement or any of the other Loan Documents or in respect of any of the Loans made or reimbursement or other obligations incurred or any of the Letters of Credit or other instruments at any time evidencing any thereof.

“OFAC” means the Office of Foreign Assets Control of the United States Department of the Treasury.

“Off-Balance Sheet Liability” of a Person means (a) any repurchase obligation or liability of such Person with respect to accounts or notes receivable sold by such Person, (b) any indebtedness, liability or obligation under any so-called “synthetic lease” transaction entered into by such Person, or (c) any indebtedness, liability or obligation arising with respect to any other transaction which is the functional equivalent of or takes the place of borrowing but which does not constitute a liability on the balance sheet of such Person (other than operating leases).

“Other Connection Taxes” means, with respect to the Lender, Taxes imposed as a result of a present or former connection between the Lender and the jurisdiction imposing such Taxes (other than a connection arising from the Lender 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, Letter of Credit, or any Loan Document.

“Other Taxes” means all present or future stamp, court 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 Other Connection Taxes imposed with respect to an assignment.

“Parent” means, with respect to the Lender, the Person of which the Lender is, directly or indirectly, a subsidiary.

“Participant” has the meaning assigned to such term in Section 8.04(c).

“Participant Register” has the meaning assigned to such term in Section 8.04(c).

“PBGC” means the Pension Benefit Guaranty Corporation referred to and defined in ERISA and any successor entity performing similar functions.

“Permitted Acquisition” means any Acquisition by any Loan Party in a transaction that satisfies each of the following requirements:

- (a) such Acquisition is not a hostile or contested acquisition;
- (b) the business acquired in connection with such Acquisition is (i) located in the U.S. (or with respect to the GT/MT Acquisition, the U.S. territory of Puerto Rico), (ii) organized under applicable U.S. and state laws (or with respect to the GT/MT Acquisition, the U.S. territory of Puerto Rico), and (iii) not engaged, directly or indirectly, in any line of business other than the businesses in which the Loan Parties are engaged on the Second Amendment Effective Date and any business activities that are substantially similar, related, or incidental thereto;
- (c) both before and after giving effect to such Acquisition and the Loans (if any) requested to be made in connection therewith, each of the representations and warranties in the Loan Documents is true and correct (except (i) any such representation or warranty which relates to a specified prior date and (ii) to the extent the Lender has been notified in writing by the Loan Parties that any representation or warranty is not correct and the Lender has explicitly waived in writing compliance with such representation or warranty) and no Default or Event of Default exists, will exist, or would result therefrom;
- (d) as soon as available, but not less than thirty (30) days prior to such Acquisition, the Borrower Representative has provided the Lender (i) notice of such Acquisition, (ii) pro forma financial statements, statements of cash flow, and Availability projections, and (iii) a copy of all other business and financial information reasonably requested by the Lender within ten (10) days after receipt of notice of such Acquisition;

(e) [reserved];

(f) if such Acquisition is an acquisition of the Equity Interests of a Person, such Acquisition is structured so that the acquired Person shall become a wholly-owned Subsidiary of the Company and, a Loan Party pursuant to the terms of this Agreement;

(g) if such Acquisition is an acquisition of assets, such Acquisition is structured so that a Borrower or other Loan Party shall acquire such assets;

(h) if such Acquisition is an acquisition of Equity Interests, such Acquisition will not result in any violation of Regulation U;

(i) if such Acquisition involves a merger or a consolidation involving a Borrower or any other Loan Party, such Borrower or such Loan Party, as applicable, shall be the surviving entity;

(j) no Loan Party shall, as a result of or in connection with any such Acquisition, assume or incur any direct or contingent liabilities (whether relating to environmental, tax, litigation, or other matters) that could reasonably be expected to have a Material Adverse Effect;

(k) in connection with an Acquisition of the Equity Interests of any Person, all Liens on property of such Person shall be terminated unless the Lender in its sole discretion consents otherwise, and in connection with an Acquisition of the assets of any Person, all Liens on such assets shall be terminated;

(l) before and after giving effect to the completion of such Acquisition, on a pro forma basis, (i) the Senior Funded Indebtedness to EBITDA Ratio shall be at least 0.50x below the highest Senior Funded Indebtedness to EBITDA Ratio permitted under Section 6.12, and (ii) the Total Funded Indebtedness to EBITDA Ratio shall be at least 0.50x below the highest Total Funded Indebtedness to EBITDA Ratio permitted under Section 6.12;

(m) the Borrower Representative shall certify to the Lender (and provide the Lender with a pro forma calculation in form and substance reasonably satisfactory to the and the Lender) that, after giving effect to the completion of such Acquisition, on a pro forma basis and at all times during the 30-day period prior to the consummation of such Acquisition, Availability will not be less than \$2,500,000 which includes all consideration given in connection with such Acquisition, other than Equity Interests of the applicable Borrower delivered to the seller(s) in such Acquisition, as having been paid in cash at the time of making such Acquisition;

(n) all actions required to be taken with respect to any newly acquired or formed wholly-owned Subsidiary of a Borrower or a Loan Party, as applicable, required under Section 5.14 shall have been taken; and

(o) the Borrower Representative shall have delivered to the Lender the final executed material documentation relating to such Acquisition within 15 days following the consummation thereof.

“Permitted Discretion” means a determination made in good faith and in the exercise of reasonable (from the perspective of a secured lender) business judgment.

“Permitted Encumbrances” means:

- (a) Liens imposed by law for Taxes that are not yet due or are being contested in compliance with Section 5.04;
- (b) carriers’, warehousemen’s, mechanics’, materialmen’s, repairmen’s and other like Liens imposed by law, arising in the ordinary course of business and securing obligations that are not overdue by more than thirty (30) days or are being contested in compliance with Section 5.04;
- (c) pledges and deposits made in the ordinary course of business in compliance with workers’ compensation, unemployment insurance and other social security laws or regulations;
- (d) deposits to secure the performance of bids, trade contracts, leases, statutory obligations, surety and appeal bonds, performance bonds and other obligations of a like nature, in each case in the ordinary course of business;
- (e) judgment Liens in respect of judgments that do not constitute an Event of Default under clause (k) of Article VII;
and
- (f) easements, zoning restrictions, rights-of-way and similar encumbrances on real property imposed by law or arising in the ordinary course of business that do not secure any monetary obligations and do not materially detract from the value of the affected property or interfere with the ordinary conduct of business of any Borrower or any Subsidiary;

provided that the term “Permitted Encumbrances” shall not include any Lien securing Indebtedness, except with respect to clause (e) above.

“Permitted Investments” means:

- (a) direct obligations of, or obligations the principal of and interest on which are unconditionally guaranteed by, the U.S. (or by any agency thereof to the extent such obligations are backed by the full faith and credit of the U.S.), in each case maturing within one year from the date of acquisition thereof;
- (b) investments in commercial paper maturing within 270 days from the date of acquisition thereof and having, at such date of acquisition, the highest credit rating obtainable from S&P or from Moody’s;
- (c) investments in certificates of deposit, bankers’ acceptances and time deposits maturing within 180 days from the date of acquisition thereof issued or guaranteed by or placed with, and money market deposit accounts issued or offered by, any domestic office of any commercial bank organized under the laws of the U.S. or any state thereof which has a combined capital and surplus and undivided profits of not less than \$500,000,000;
- (d) fully collateralized repurchase agreements with a term of not more than 30 days for securities described in clause (a) above and entered into with a financial institution satisfying the criteria described in clause (c) above; and
- (e) money market funds that (i) comply with the criteria set forth in Securities and Exchange Commission Rule 2a-7 under the Investment Company Act of 1940, (ii) are rated AAA by S&P and Aaa by Moody’s and (iii) have portfolio assets of at least \$5,000,000,000.

“Permitted Joint Venture Investments” means an investment in joint ventures by any Loan Party that satisfies each of the following requirements:

- (a) after giving effect to the investment in the joint venture entity a Loan Party will own at least 51% of the Equity Interests having ordinary voting power of such joint venture entity;
- (b) the aggregate amount of all such investments in all joint venture entities does not exceed (i) \$1,250,000 in any twelve month period, and (ii) \$3,750,000 invested at any time in question;
- (c) the joint venture entity is not engaged, directly or indirectly, in any line of business other than the businesses in which the Loan Parties are engaged on the Second Amendment Effective Date and any business activities that are substantially similar, related, or incidental thereto;
- (d) both before and after giving effect to the investment in the joint venture entity each of the representations and warranties in the Loan Documents is true and correct (except (i) any such representation or warranty which relates to a specified prior date and (ii) to the extent the Lender has been notified in writing by the Loan Parties that any representation or warranty is not correct and the Lender has explicitly waived in writing compliance with such representation or warranty) and no Default or Event of Default exists, will exist, or would result therefrom on a pro forma basis after giving effect to any such investment;
- (e) not less than thirty (30) days prior to such investment in the joint venture entity, the Borrower Representative has provided the Lender (i) notice of such investment and (ii) a copy of all other business and financial information reasonably requested by the Lender within ten (10) days after receipt of notice of such investment;
- (f) no Loan Party shall, as a result of or in connection with investment in the joint venture entity, assume or incur any direct or contingent liabilities (whether relating to environmental, tax, litigation, or other matters) that could reasonably be expected to have a Material Adverse Effect;
- (g) with respect to any investment (or series of investments) in a joint venture entity that exceeds \$625,000 in the aggregate, all actions required under Section 5.14 shall have been taken.

“Person” means any natural person, corporation, limited liability company, trust, joint venture, association, company, partnership, Governmental Authority or other entity.

“Plan” means any employee pension benefit plan (other than a Multiemployer Plan) subject to the provisions of Title IV of ERISA or Section 412 of the Code or Section 302 of ERISA, and in respect of which any Borrower or any ERISA Affiliate is (or, if such plan were terminated, would under Section 4069 of ERISA be deemed to be) an “employer” as defined in Section 3(5) of ERISA.

“Prepayment Event” means:

- (a) any sale, transfer or other disposition (including pursuant to a sale and leaseback transaction) of any property or asset of any Loan Party or any Subsidiary, other than dispositions described in Section 6.05(a); or
- (b) subject to Section 2.09(c), any casualty or other insured damage to, or any taking under power of eminent domain or by condemnation or similar proceeding of, any property or asset of any Loan Party or any Subsidiary with a fair value immediately prior to such event equal to or greater than \$187,500; or

(c) the issuance by the Company of any Equity Interests, or the receipt by the Company of any capital contribution, (other than the offering or exercise of stock options or other equity awards pursuant to management incentive plans); or

(d) the incurrence by any Loan Party or any Subsidiary of any Indebtedness, other than Indebtedness permitted under Section 6.01.

“Prime Rate” means the rate of interest last quoted by The Wall Street Journal as the “Prime Rate” in the U.S. or, if The Wall Street Journal ceases to quote such rate, the highest per annum interest rate published by the Federal Reserve Board in Federal Reserve Statistical Release H.15 (519) (Selected Interest Rates) as the “bank prime loan” rate or, if such rate is no longer quoted therein, any similar rate quoted therein (as determined by the Lender) or any similar release by the Federal Reserve Board (as determined by the Lender). Each change in the Prime Rate shall be effective from and including the date such change is publicly announced or quoted as being effective.

“Pro Forma EBITDA” means, at any time with respect to any Target acquired in a Permitted Acquisition, the Net Income of such Target for the then most recent twelve (12) month period for which financial statements of such Target have been made available to Lender, *plus* (a) without duplication and to the extent deducted in determining Net Income for such period, the sum of (i) Interest Expense for such period, (ii) income tax expense for such period, (iii) all amounts attributable to depreciation and amortization expense for such period, (iv) any non-recurring non-cash charges for such period, (v) any non-recurring fees, cash charges and other cash expenses, *minus* (b) without duplication and to the extent included in Net Income, any non-recurring non-cash gains for such period, all calculated in accordance with GAAP.

“Projections” has the meaning assigned to such term in Section 5.01(e).

“Qualified ECP Guarantor” means, in respect of any Swap Obligation, each Loan Party that has total assets exceeding \$10,000,000 at the time the relevant Loan Guaranty or grant of the relevant security interest becomes or would become 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.

“Real Property” means all real property that was, is now or may hereafter be owned, occupied or otherwise controlled by any Loan Party pursuant to any contract of sale, lease or other conveyance of any legal interest in any real property to any Loan Party.

“Refinance Indebtedness” has the meaning assigned to such term in Section 6.01(f).

“Regulation D” means Regulation D of the Board of Governors of the Federal Reserve System as from time to time in effect and any successor thereto or other regulation or official interpretation of said Board of Governors relating to reserve requirements applicable to member banks of the Federal Reserve System.

“Related Parties” means, with respect to any specified Person, such Person’s Affiliates and the respective directors, officers, partners, members, trustees, employees, agents, administrators, managers, representatives and advisors of such Person and such Person’s Affiliates.

“Release” means any releasing, spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, migrating, disposing, or dumping of any substance into the environment.

“Report” means reports prepared by the Lender or another Person showing the results of appraisals, field examinations or audits pertaining to a Borrower’s assets from information furnished by or on behalf of such Borrower, after the Lender has exercised its rights of inspection pursuant to this Agreement.

“Requirement of Law” means, with respect to any Person, (a) the charter, articles or certificate of organization or incorporation and bylaws or operating, management or partnership agreement, or other organizational or governing documents of such Person and (b) any statute, law (including common law), treaty, rule, regulation, code, ordinance, order, decree, writ, judgment, injunction or determination of any arbitrator or court or other Governmental Authority (including Environmental Laws), in each case 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 any and all reserves which the Lender deems necessary, in its Permitted Discretion, to maintain with respect to the Collateral or any Loan Party.

“Reserve Requirement” means, with respect to an Interest Period, the maximum aggregate reserve requirement (including all basic, supplemental, marginal and other reserves) which is imposed under Regulation D.

“Restricted Payment” means any dividend or other distribution (whether in cash, securities or other property) with respect to any Equity Interests in any Borrower or any Subsidiary, or any payment (whether in cash, securities or other property), including any sinking fund or similar deposit, on account of the purchase, redemption, retirement, acquisition, cancellation or termination of any such Equity Interests or any option, warrant or other right to acquire any such Equity Interests (excluding any payment under any liquidated earn-out due in connection with the acquisition of the Equity Interest of a Person that constitutes a Permitted Acquisition hereunder).

“Revolving Commitment” means the commitment of the Lender to make Revolving Loans and issue Letters of Credit hereunder, as such commitment may be reduced from time to time pursuant to Section 2.07. As of the Fifth Amendment Effective Date, the amount of the Lender’s Revolving Commitment is \$30,000,000.

“Revolving Credit Maturity Date” means June 1, 2024 (if the same is a Business Day, or if not then the immediately next succeeding Business Day), or any earlier date on which the Revolving Commitment is reduced to zero or otherwise terminated pursuant to the terms hereof.

“Revolving Exposure” means, at any time, the sum of the aggregate outstanding principal amount of the Lender’s Revolving Loans and its LC Exposure at such time.

“Revolving Loan” means a Loan made pursuant to Section 2.01(a).

“S&P” means Standard & Poor’s Ratings Services, a Standard & Poor’s Financial Services LLC business.

“Sale and Leaseback Transaction” has the meaning assigned to such term in Section 6.06.

“Sanctioned Country” means, at any time, a country, region or territory which is the subject or target of any Sanctions (at the time of this Agreement, Crimea, Cuba, Iran, North Korea, Sudan and Syria).

“Sanctioned Person” means, at any time, (a) any Person listed in any Sanctions-related list of designated Persons maintained by the Office of Foreign Assets Control of the U.S. Department of the Treasury, or the U.S. Department of State; (b) any Person operating, organized or resident in a Sanctioned Country; (c) any Person owned or controlled by any such Person or Persons described in the foregoing clauses (a) or (b); or (d) any Person otherwise the subject of any Sanctions.

“Sanctions” means all economic or financial sanctions or trade embargoes imposed, administered or enforced from time to time by the U.S. government, including those administered by the Office of Foreign Assets Control of the U.S. Department of the Treasury or the U.S. Department of State.

“SEC” means the Securities and Exchange Commission of the U.S.

“Second Amendment Effective Date” means September 30, 2019.

“Secured Obligations” means all Obligations, together with all (i) Banking Services Obligations and (ii) Swap Agreement Obligations owing to the Lender or its Affiliates; provided, however, that the definition of “Secured Obligations” shall not create any guarantee by any Guarantor of (or grant of security interest by any Guarantor to support, as applicable) any Excluded Swap Obligations of such Guarantor for purposes of determining any obligations of any Guarantor.

“Secured Parties” means (a) the Lender, (b) each provider of Banking Services, to the extent the Banking Services Obligations in respect thereof constitute Secured Obligations, (c) each counterparty to any Swap Agreement, to the extent the obligations thereunder constitute Secured Obligations, (d) the beneficiaries of each indemnification obligation undertaken by any Loan Party under any Loan Document and (e) the successors and assigns of each of the foregoing.

“Security Agreement” means that certain Pledge and Security Agreement (including any and all supplements thereto), dated as of the date hereof, among the Loan Parties and the Lender, for the benefit of the Secured Parties, and any other pledge or security agreement entered into, after the date of this Agreement by any other Loan Party (as required by this Agreement or any other Loan Document) or any other Person for the benefit of the Lender, on behalf of the Secured Parties, as the same may be amended, restated, supplemented or otherwise modified from time to time.

“Senior Funded Indebtedness” means, at any date, the aggregate principal amount of total liabilities of the Company and its Subsidiaries on a consolidated basis, minus the sum of (a) accounts payable arising from the purchase of goods and services in the ordinary course of business, (b) accrued expenses or losses, (c) deferred revenues or gains, and (d) Subordinated Indebtedness, determined for the Company and its Subsidiaries on a consolidated basis at such date, in accordance with GAAP.

“Senior Funded Indebtedness to EBITDA Ratio” means, at any date, the ratio of (a) Senior Funded Indebtedness for such date to (b) Adjusted EBITDA for the period of four fiscal quarters ended on or most recently prior to such date.

“Standby LC Exposure” means, at any time, the sum of (a) the aggregate undrawn amount of all standby Letters of Credit outstanding at such time plus (b) the aggregate amount of all LC Disbursements relating to standby Letters of Credit that have not yet been reimbursed by or on behalf of a Borrower at such time.

“Statement” has the meaning assigned to such term in Section 2.16(d).

“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 percentage (including any marginal, special, emergency or supplemental reserves) established by the Federal Reserve Board to which the Lender is subject with respect to the Adjusted LIBOR Rate, for eurocurrency funding (currently referred to as “Eurocurrency liabilities” in Regulation D). Such reserve percentages shall include those imposed pursuant to Regulation D of the Federal Reserve Board. Eurodollar Loans shall be deemed to constitute eurocurrency 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 the Lender under Regulation D of the Federal Reserve Board 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.

“Subordinated Indebtedness” of a Person means any Indebtedness of such Person, the payment of which is subordinated to payment of the Obligations to the written satisfaction of the Lender.

“subsidiary” means, with respect to any Person (the “parent”) at any date, any corporation, limited liability company, partnership, association or other entity the accounts of which would be consolidated with those of the parent in the parent’s consolidated financial statements if such financial statements were prepared in accordance with GAAP as of such date, as well as any other corporation, limited liability company, partnership, association or other entity (a) of which securities or other ownership interests representing more than 50% of the equity or more than 50% of the ordinary voting power or, in the case of a partnership, more than 50% of the general partnership interests are, as of such date, owned, controlled or held, or (b) that is, as of such date, otherwise Controlled, by the parent or one or more subsidiaries of the parent or by the parent and one or more subsidiaries of the parent. Notwithstanding the foregoing, Excluded Subsidiaries shall not be considered or deemed a “Subsidiary” for purposes of the provisions of this Agreement (including, without limitation, in connection with the calculation of the financial covenants set forth in Section 6.12 hereof (and the definitions related such calculations) or the issuing of letters of credit under Section 2.04) other than the following provisions: the definition of “Banking Services”, Section 3.03, Section 3.06, Section 3.07, Section 3.15, Section 3.21, Section 5.07, Section 5.08, clauses (c) and (f) of Article VII, and Section 8.03(b).

“Subsidiary” means any direct or indirect subsidiary of the Company, a Borrower or of any other Loan Party, as applicable.

“Swap Agreement” means any agreement with respect to any swap, forward, spot, future, credit default or derivative transaction or any option or similar agreement involving, or settled by reference to, one or more rates, currencies, commodities, equity or debt instruments or securities, or economic, financial or pricing indices or measures of economic, financial or pricing risk or value or any similar transaction or any combination of these transactions; provided that no phantom stock or similar plan providing for payments only on account of services provided by current or former directors, officers, employees or consultants of the Borrowers or their Subsidiaries shall be a Swap Agreement.

“Swap Agreement Obligations” means any and all obligations of the Loan Parties or their Subsidiaries, whether absolute or contingent and howsoever and whensoever created, arising, evidenced or acquired (including all renewals, extensions and modifications thereof and substitutions therefor), under (a) any Swap Agreement permitted hereunder with the Lender or an Affiliate of the Lender, and (b) any cancellations, buy backs, reversals, terminations or assignments of any Swap Agreement transaction permitted hereunder with the Lender or an Affiliate of the Lender.

“Swap Obligation” means, with respect to any 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 or any rules or regulations promulgated thereunder.

“Target” means the Person, or business or substantially all of the assets of a Person, acquired in a Permitted Acquisition.

“Taxes” means any and all present or future taxes, levies, imposts, duties, deductions, withholdings (including backup withholding), value added taxes, or any other goods and services, use or sales taxes, assessments, fees or other charges imposed by any Governmental Authority, including any interest, additions to tax or penalties applicable thereto.

“Term A Commitment” means the commitment of the Lender to make a Term A Loan, expressed as an amount representing the maximum principal amount of the Term A Loan to be made by the Lender. The amount of the Lender’s Term A Commitment on the First Amendment Effective Date is \$6,000,000.

“Term A Loan” means a Loan made pursuant to Section 2.01(b).

“Term A Maturity Date” means December 2, 2022; provided, however, that if the Revolving Commitment shall be terminated for any reason, the unpaid amounts owing on the Term Loans shall be immediately due and payable in full.

“Term Commitments” means the Term A Commitment.

“Term Loans” means the Term A Loans.

“Total Funded Indebtedness” means, at any date, the aggregate principal amount of total liabilities of the Company and its Subsidiaries on a consolidated basis, minus the sum of (a) accounts payable arising from the purchase of goods and services in the ordinary course of business, (b) accrued expenses or losses, and (c) deferred revenues or gains, determined for the Company and its Subsidiaries on a consolidated basis at such date, in accordance with GAAP.

“Total Funded Indebtedness to EBITDA Ratio” means, at any date, the ratio of (a) Total Funded Indebtedness for such date to (b) Adjusted EBITDA for the period of four fiscal quarters ended on or most recently prior to such date.

“Transactions” means the execution, delivery and performance by the Borrowers of this Agreement and the other Loan Documents, the Air Enterprises Acquisition, the CAD Acquisition, the borrowing of Loans and other credit extensions hereunder, the use of the proceeds thereof and the issuance of Letters of Credit hereunder.

“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 LIBOR Rate or the CB Floating Rate.

“UCC” means the Uniform Commercial Code as in effect from time to time in the State of Ohio or in any other state, the laws of which are required to be applied in connection with the issue of perfection of security interests.

“Unliquidated Obligations” means, at any time, any Secured Obligations (or portion thereof) that are contingent in nature or unliquidated at such time, including any Secured Obligation that is: (i) an obligation to reimburse a bank for drawings not yet made under a letter of credit issued by it; (ii) any other obligation (including any guarantee) that is contingent in nature at such time; or (iii) an obligation to provide collateral to secure any of the foregoing types of obligations.

“U.S.” means the United States of America.

“USA PATRIOT Act” means the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001.

“Withdrawal Liability” means liability to a Multiemployer Plan as a result of a complete or partial withdrawal from such Multiemployer Plan, as such terms are defined in Part I of Subtitle E of Title IV of ERISA.

SECTION 1.02. Classification of Loans and Borrowings. For purposes of this Agreement, Loans may be classified and referred to by Class (e.g., a “Revolving Loan”) or by Type (e.g., a “Eurodollar Loan”) or by Class and Type (e.g., a “Eurodollar Revolving Loan”). Borrowings also may be classified and referred to by Class (e.g., a “Revolving Borrowing”) or by Type (e.g., a “Eurodollar Borrowing”) or by Class and Type (e.g., a “Eurodollar Revolving 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 “law” shall be construed as referring to all statutes, rules, regulations, codes and other laws (including official rulings and interpretations thereunder having the force of law or with which affected Persons customarily comply) and all judgments, orders and decrees of all Governmental Authorities. The word “will” shall be construed to have the same meaning and effect as the word “shall”. Unless the context requires otherwise (a) any definition of or reference to any agreement, instrument or other document herein shall be construed as referring to such agreement, instrument or other document as from time to time amended, restated, supplemented or otherwise modified (subject to any restrictions on such amendments, restatements, supplements or modifications set forth herein), (b) any definition of or reference to any statute, rule or regulation shall be construed as referring thereto as from time to time amended, supplemented or otherwise modified (including by succession of comparable successor laws), (c) any reference herein to any Person shall be construed to include such Person’s successors and assigns (subject to any restrictions on assignments set forth herein) 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, shall be construed to refer to this Agreement in its entirety and not to any particular provision hereof, (e) all references herein to Articles, Sections, Exhibits and Schedules shall be construed to refer to Articles and Sections of, and Exhibits and Schedules to, this Agreement, (f) any reference in any definition to the phrase “at any time” or “for any period” shall refer to the same time or period for all calculations or determinations within such definition, and (g) the words “asset” and “property” shall be construed to have the same meaning and effect and to refer to any and all tangible and intangible assets and properties, including cash, securities, accounts and contract rights.

SECTION 1.04. Accounting Terms; GAAP. Except as otherwise expressly provided herein, all terms of an accounting or financial nature shall be construed in accordance with GAAP, as in effect from time to time; provided that, if after the date hereof there occurs any change in GAAP or in the application thereof on the operation of any provision hereof and the Borrower Representative notifies the Lender that the Borrowers request an amendment to any provision hereof to eliminate the effect of such change in GAAP or in the application thereof (or if the Lender notifies the Borrower Representative that the Lender requests 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 shall have become effective until such notice shall have been withdrawn or such provision amended in accordance herewith. Notwithstanding any other provision contained herein, 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 (i) without giving effect to any election under Financial Accounting Standards Board Accounting Standards Codification 825-10-25 (or any other Accounting Standards Codification or Financial Accounting Standard having a similar result or effect) to value any Indebtedness or other liabilities of any Loan Party at “fair value”, as defined therein and (ii) without giving effect to any treatment of Indebtedness in respect of convertible debt instruments under Financial Accounting Standards Board 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. Notwithstanding anything to the contrary contained in this Section 1.04 or in the definition of “Capital Lease Obligations,” in the event of an accounting change requiring all leases to be capitalized, 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 date hereof 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. Interest Rates; LIBOR Notification. The interest rate on Eurodollar Loans is determined by reference to the LIBOR Rate, which is derived from the London interbank offered rate (“LIBOR”). LIBOR is intended to represent the rate at which contributing banks may obtain short-term borrowings from each other in the London interbank market. In July 2017, the U.K. Financial Conduct Authority announced that, after the end of 2021, it would no longer persuade or compel contributing banks to make rate submissions to the ICE Benchmark Administration (together with any successor to the ICE Benchmark Administrator, the “IBA”) for purposes of the IBA setting LIBOR. As a result, it is possible that commencing in 2022, LIBOR may no longer be available or may no longer be deemed an appropriate reference rate upon which to determine the interest rate on Eurodollar Loans. In light of this eventuality, public and private sector industry initiatives are currently underway to identify new or alternative reference rates to be used in place of LIBOR. In the event LIBOR is no longer available (or in certain other circumstances), Section 2.12(c) of this Agreement provides a mechanism for determining an alternative rate of interest. The Lender will notify the Borrower Representative, pursuant to Section 2.12(c), in advance of any change to the reference rate upon which the interest rate of Eurodollar Loans is based. However, the Lender does not warrant or accept any responsibility for, and shall not have any liability with respect to, the administration, submission or any other matter related to LIBOR or other rates in the definition of “LIBOR Rate” or with respect to any alternative, successor rate thereto, or replacement rate thereof, including without limitation, whether the composition or characteristics of any such alternative, successor or replacement reference rate will be similar to, or produce the same value or economic equivalence of the LIBOR Rate or have the same volume or liquidity as did LIBOR prior to its discontinuance or unavailability.

SECTION 1.06. Status of Obligations. In the event that any Borrower or any other Loan Party shall at any time issue or have outstanding any Subordinated Indebtedness, such Borrower shall take or cause such other Loan Party to take all such actions as shall be necessary to cause the Obligations to constitute senior indebtedness (however denominated) in respect of such Subordinated Indebtedness and to enable the Lender to have and exercise any payment blockage or other remedies available or potentially available to holders of senior indebtedness under the terms of such Subordinated Indebtedness. Without limiting the foregoing, the Secured Obligations are hereby designated as “senior indebtedness” and as “designated senior indebtedness” and words of similar import under and in respect of any indenture or other agreement or instrument under which such Subordinated Indebtedness is outstanding and are further given all such other designations as shall be required under the terms of any such Subordinated Indebtedness in order that the Lender may have and exercise any payment blockage or other remedies available or potentially available to holders of senior indebtedness under the terms of such Subordinated Indebtedness.

ARTICLE II

The Credits

SECTION 2.01. Commitments. (a) Subject to the terms and conditions set forth herein, the Lender agrees to make Revolving Loans in dollars to the Borrowers from time to time during the Availability Period in an aggregate principal amount that will not result in the Revolving Exposure exceeding the Revolving Commitment. Within the foregoing limits and subject to the terms and conditions set forth herein, the Borrowers may borrow, prepay and reborrow Revolving Loans.

(b) On the Effective Date the Lender made a “Term A Loan” to Borrowers a portion of which remains outstanding on the First Amendment Effective Date in the amount of \$1,499,999.96 (the “Existing Term A Loan”). Subject to the terms and conditions set forth herein, the Existing Term A Loan shall remain outstanding and, on the First Amendment Effective Date, the Lender agrees to make an additional term loan in dollars to the Borrowers in an amount equal to the difference between the Existing Term A Loan and the Term A Loan Commitment. For purposes of this Agreement, the term “Term A Loan” shall mean the aggregate amount of the Existing Term A Loan and the additional term loan advanced on the First Amendment Effective Date pursuant to this subsection (b) which such aggregate amount shall be consolidated in accordance with this subsection. Amounts prepaid or repaid in respect of Term A Loans may not be reborrowed.

(c) Subject to the terms and conditions set forth herein, the Lender agrees to make CapEx Loans to the Borrowers from time to time during the CapEx Commitment Period in an aggregate principal amount that will not result in the aggregate amount of all CapEx Loans exceeding the CapEx Commitment. On the date of the making a CapEx Loan to the Borrowers hereunder, the CapEx Commitment shall be permanently reduced by an amount equal to such CapEx Loan or CapEx Loans. Within the foregoing limits and subject to the terms and conditions set forth herein, the Borrowers may prepay, in whole or in part, any CapEx Loan or CapEx Loans, together with all accrued interest thereon at any time; provided, however, that the Borrowers may not reborrow the amount of any CapEx Loan prepaid or converted to a CapEx Term Loan pursuant to the provisions below.

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.

(b) Subject to Section 2.12, each Revolving Borrowing, CapEx Borrowing and Term Loan Borrowing shall be comprised entirely of CBFR Loans or Eurodollar Loans as the Borrower Representative may request in accordance herewith, provided that (i) all Revolving Borrowings and Term Loan Borrowings made on the Effective Date must be made as CBFR Borrowings but may be converted into Eurodollar Borrowings in accordance with Section 2.06, and (ii) all CapEx Borrowings made on the First Amendment Effective Date must be made as CBFR Borrowings but may be converted into Eurodollar Borrowings in accordance with Section 2.06. The Lender at its option may make any Eurodollar Loan by causing any domestic or foreign branch or Affiliate of the Lender to make such Loan (and in the case of an Affiliate, the provisions of Sections 2.12, 2.13, 2.14 and 2.15 shall apply to such Affiliate to the same extent as to the Lender); provided that any exercise of such option shall not affect the obligation of the Borrowers to repay such Loan in accordance with the terms of this Agreement.

(c) Notwithstanding anything to the contrary contained in this Agreement, Borrowers shall not be entitled to request more than 4 CapEx Loans during the CapEx Commitment Period, and each request for a CapEx Loan shall be in an amount of at least \$250,000. On the last day of the CapEx Commitment Period, the Lenders shall convert all CapEx Loans outstanding into a CapEx Term Loan in the aggregate principal amount of such CapEx Loans. The Lender is hereby authorized and directed by the Borrowers to apply the proceeds of the CapEx Term Loan to the principal and interest then owed on the CapEx Loans being converted. The Borrower Representative shall notify the Lender at the time of the conversion of the CapEx Loans to a CapEx Term Loan whether the CapEx Term Loan will be a CBFR Borrowing or a Eurodollar Borrowing. If the Borrower Representative fails to notify the Lender at the time of the conversion whether the CapEx Term Loan will be a CBFR Loans or a Eurodollar Loans, then the CapEx Term Loan will be a CBFR Loan.

(d) Notwithstanding any other provision of this Agreement, the Borrowers shall not 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 Revolving Credit Maturity Date or the Term A Maturity Date.

SECTION 2.03. Borrowing Procedures; Requests for Revolving and CapEx Borrowings.

(a) To request a Borrowing (other than a CapEx Borrowing), the Borrower Representative shall notify the Lender of such request either in writing (delivered by hand or fax) in a form reasonably satisfactory to the Lender and signed by the Borrower Representative or by telephone or through Electronic System, if arrangements for doing so have been approved by the Lender, not later than noon, Eastern Standard Time, on the date of the proposed Borrowing; provided that any such notice of a CBFR Revolving Borrowing to finance the reimbursement of an LC Disbursement as contemplated by Section 2.04(d) may be given not later than 9:00 a.m., Eastern Standard Time, on the date of the proposed Borrowing. Each such telephonic Borrowing Request shall be irrevocable and shall be confirmed promptly by hand delivery, fax or a communication through Electronic System to the Lender of a written Borrowing Request in a form approved by the Lender and signed by the Borrower Representative. Each such telephonic and written Borrowing Request shall specify the following information in compliance with Section 2.01:

- (i) the Class of Borrowing, the aggregate amount of the requested Borrowing, and a breakdown of the separate wires comprising such Borrowing;
- (ii) name of the applicable Borrower(s);
- (iii) the date of such Borrowing, which shall be a Business Day; and
- (iv) whether such Borrowing is to be a CBFR Borrowing or a Eurodollar Borrowing;

If no election as to the Type of Borrowing is specified, then the requested Borrowing shall be a CBFR Borrowing.

(b) To request a CapEx Borrowing, the Borrower Representative shall deliver to the Lender a CapEx Draw Request and one (1) or more invoices (or other similar sale documents) evidencing that the CapEx Loan being requested is in excess of \$250,000 but not in excess of 100% percent of the hard invoiced costs of the capital spending for new machinery or new equipment, determined in accordance with GAAP, that has been purchased by a Borrower and paid for in full at the time of the request (I) in the case of a Eurodollar Borrowing, not later than 9:00 a.m., Eastern Standard Time, three Business Days before the date of the proposed Borrowing or (II) in the case of a CBFR Borrowing, not later than noon, Eastern Standard Time, on the date of the proposed Borrowing. If no election as to the Type of CapEx Borrowing is specified on the CapEx Draw Request, then the requested CapEx Borrowing shall be a CBFR Borrowing.

SECTION 2.04. Letters of Credit.

(a) General. Subject to the terms and conditions set forth herein, the Borrower Representative, on behalf of a Borrower, may request the issuance of Letters of Credit denominated in dollars as the applicant thereof for the support of the obligations of any Borrower or any Subsidiary thereof, in a form reasonably acceptable to the Lender, at any time and from time to time during the Availability Period. In the event of any inconsistency between the terms and conditions of this Agreement and the terms and conditions of any form of letter of credit application or other agreement submitted by the Borrowers to, or entered into by the Borrowers with, the Lender relating to any Letter of Credit, the terms and conditions of this Agreement shall control. Each Borrower unconditionally and irrevocably agrees that, in connection with any Letter of Credit issued for the support of any Subsidiary's obligations as provided in the first sentence of this paragraph, such Borrower will be fully responsible for the reimbursement of LC Disbursements in accordance with the terms hereof, the payment of interest thereon and the payment of fees due under Section 2.10(b) to the same extent as if it were the sole account party in respect of such Letter of Credit (each Borrower hereby irrevocably waiving any defenses that might otherwise be available to it as a guarantor or surety of the obligations of such Subsidiary that is an account party in respect of any such Letter of Credit). Notwithstanding anything herein to the contrary, the Lender shall have no obligation hereunder to issue, and shall not issue, any Letter of Credit (i) the proceeds of which would be made available to any Person (A) to fund any activity or business of or with any Sanctioned Person, or in any country or territory that, at the time of such funding, is the subject of any Sanctions or (B) in any manner that would result in a violation of any Sanctions by any party to this Agreement, (ii) if any order, judgment or decree of any Governmental Authority or arbitrator shall by its terms purport to enjoin or restrain the Lender from issuing such Letter of Credit, or any Requirement of Law relating to the Lender or any request or directive (whether or not having the force of law) from any Governmental Authority with jurisdiction over the Lender shall prohibit, or request that the Lender refrain from, the issuance of letters of credit generally or such Letter of Credit in particular or shall impose upon the Lender with respect to such Letter of Credit any restriction, reserve or capital requirement (for which the Lender is not otherwise compensated hereunder) not in effect on the Effective Date, or shall impose upon the Lender any unreimbursed loss, cost or expense which was not applicable on the Effective Date and which the Lender in good faith deems material to it, or (iii) if the issuance of such Letter of Credit would violate one or more policies of the Lender applicable to letters of credit generally; provided that, notwithstanding anything herein to the contrary, (x) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, guidelines, requirements or directives thereunder or issued in connection therewith or in the 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 the United States or foreign regulatory authorities, in each case pursuant to Basel III, shall in each case be deemed not to be in effect on the Effective Date for purposes of clause (ii) above, regardless of the date enacted, adopted, issued or implemented.

(b) Notice of Issuance, Amendment, Renewal, Extension; Certain Conditions. To request the issuance of a Letter of Credit (or the amendment, renewal or extension of an outstanding Letter of Credit), the Borrower Representative shall hand deliver or fax (or transmit through Electronic System, if arrangements for doing so have been approved by the Lender) to the Lender (reasonably in advance of the requested date of issuance, amendment, renewal or extension, but in any event no less than three (3) Business Days) a notice requesting the issuance of a Letter of Credit, or identifying the Letter of Credit to be amended, renewed or extended, and specifying the date of issuance, amendment, renewal or extension (which shall be a Business Day), the date on which such Letter of Credit is to expire (which shall comply with paragraph (c) of this Section), the amount of such Letter of Credit, the name and address of the beneficiary thereof, and such other information as shall be necessary to prepare, amend, renew or extend such Letter of Credit. If requested by the Lender, the applicable Borrower also shall submit a letter of credit application on the Lender's standard form in connection with any request for a Letter of Credit. A Letter of Credit shall be issued, amended, renewed or extended only if (and upon issuance, amendment, renewal or extension of each Letter of Credit the Borrowers shall be deemed to represent and warrant that), after giving effect to such issuance, amendment, renewal or extension (i) the LC Exposure shall not exceed the LC Sublimit, and (ii) the Revolving Exposure shall not exceed the Revolving Commitment.

(c) Expiration Date. Each Letter of Credit shall expire (or be subject to termination or non-renewal by notice from the Lender to the beneficiary thereof) at or prior to the close of business on the earlier of (i) the date one year after the date of the issuance of such Letter of Credit (or, in the case of any renewal or extension thereof, including, without limitation, any automatic renewal provision, one year after such renewal or extension) and (ii) the date that is five Business Days prior to the Revolving Credit Maturity Date.

(d) Reimbursement. If the Lender shall make any LC Disbursement in respect of a Letter of Credit, the Borrowers shall reimburse such LC Disbursement by paying to the Lender an amount equal to such LC Disbursement not later than 11:00 a.m., Eastern Standard Time, on (i) the Business Day that the Borrower Representative receives notice of such LC Disbursement, if such notice is received prior to 9:00 a.m., Eastern Standard Time, on the day of receipt, or (ii) the Business Day immediately following the day that the Borrower Representative receives such notice, if such notice is received after 9:00 a.m., Eastern Standard Time on the day of receipt; provided that, the Borrowers may, subject to the conditions to borrowing set forth herein, request in accordance with Section 2.03 or 2.05 that such payment be financed with a CBFR Revolving Borrowing in an equivalent amount and, to the extent so financed, the Borrowers' obligation to make such payment shall be discharged and replaced by the resulting CBFR Revolving Borrowing.

(e) Obligations Absolute. The Borrowers' joint and several obligation to reimburse LC Disbursements as provided in paragraph (d) of this Section shall be absolute, unconditional and irrevocable, and shall be performed strictly in accordance with the terms of this Agreement under any and all circumstances whatsoever and irrespective of any (i) lack of validity or enforceability of any Letter of Credit or this Agreement, or any term or provision therein or herein, (ii) draft or other document presented under a Letter of Credit proving to be forged, fraudulent or invalid in any respect or any statement therein being untrue or inaccurate in any respect, (iii) payment by the Lender under a Letter of Credit against presentation of a draft or other document that does not comply with the terms of such Letter of Credit, or (iv) other event or circumstance whatsoever, whether or not similar to any of the foregoing, that might, but for the provisions of this Section, constitute a legal or equitable discharge of, or provide a right of setoff against, the Borrowers' obligations hereunder. Neither the Lender nor any of its Related Parties, shall have any liability or responsibility by reason of or in connection with the issuance or transfer of any Letter of Credit, any payment or failure to make any payment thereunder (irrespective of any of the circumstances referred to in the preceding sentence), or any error, omission, interruption, loss or delay in transmission or delivery of any draft, notice or other communication under or relating to any Letter of Credit (including any document required to make a drawing thereunder), any error in interpretation of technical terms or any consequence arising from causes beyond the control of the Lender; provided that the foregoing shall not be construed to excuse the Lender from liability to the Borrowers to the extent of any direct damages (as opposed to special, indirect, consequential or punitive damages, claims in respect of which are hereby waived by the Borrowers to the extent permitted by applicable law) suffered by any Borrower that are caused by the Lender's failure to exercise care when determining whether drafts and other documents presented under a Letter of Credit comply with the terms thereof. The parties hereto expressly agree that, in the absence of gross negligence or willful misconduct on the part of the Lender (as finally determined by a court of competent jurisdiction), the Lender shall be deemed to have exercised care in each such determination. In furtherance of the foregoing and without limiting the generality thereof, the parties agree that, with respect to documents presented which appear on their face to be in substantial compliance with the terms of a Letter of Credit, the Lender may, in its sole discretion, either accept and make payment upon such documents without responsibility for further investigation, regardless of any notice or information to the contrary, or refuse to accept and make payment upon such documents if such documents are not in strict compliance with the terms of such Letter of Credit.

(f) Disbursement Procedures. The Lender shall, promptly following its receipt thereof, examine all documents purporting to represent a demand for payment under a Letter of Credit. The Lender shall promptly notify the Borrower Representative by telephone (confirmed by fax) of such demand for payment and whether the Lender has made or will make an LC Disbursement thereunder; provided that any failure to give or delay in giving such notice shall not relieve the Borrowers of their obligation to reimburse the Lender with respect to any such LC Disbursement.

(g) Interim Interest. If the Lender shall make any LC Disbursement, then, unless the Borrowers shall reimburse such LC Disbursement in full on the date such LC Disbursement is made, the unpaid amount thereof shall bear interest, for each day from and including the date such LC Disbursement is made to but excluding the date that the Borrowers reimburse such LC Disbursement, at the rate per annum then applicable to CBFR Revolving Loans and such interest shall be due and payable on the date when such reimbursement is due; provided that, if the Borrowers fail to reimburse such LC Disbursement when due pursuant to paragraph (d) of this Section, then Section 2.11(c) shall apply. Interest accrued pursuant to this paragraph shall be for the account of the Lender.

(h) Cash Collateralization. If any Event of Default shall occur and be continuing, on the Business Day that the Borrower Representative receives notice from the Lender demanding the deposit of cash collateral pursuant to this paragraph, the Borrowers shall deposit in an account with the Lender, in the name and for the benefit of the Lender (the "LC Collateral Account"), an amount in cash equal to 105% of the amount of the LC Exposure as of such date plus accrued and unpaid interest thereon; provided that the obligation to deposit such cash collateral shall become effective immediately, and such deposit shall become immediately due and payable, without demand or other notice of any kind, upon the occurrence of any Event of Default with respect to any Borrower described in clause (h) or (i) of Article VII. The Borrowers also shall deposit cash collateral in accordance with this paragraph as and to the extent required by Section 2.09(b). Each such deposit shall be held by the Lender as collateral for the payment and performance of the Secured Obligations. The Lender shall have exclusive dominion and control, including the exclusive right of withdrawal, over the LC Collateral Account and the Borrowers hereby grant the Lender a security interest in the LC Collateral Account and all moneys or other assets on deposit therein or credited thereto. Other than any interest earned on the investment of such deposits, which investments shall be made at the option and sole discretion of the Lender and at the Borrowers' risk and expense, such deposits shall not bear interest. Interest or profits, if any, on such investments shall accumulate in such account. Moneys in such account shall be applied by the Lender for LC Disbursements for which it has not been reimbursed and, to the extent not so applied, shall be held for the satisfaction of the reimbursement obligations of the Borrowers for the LC Exposure at such time or, if the maturity of the Loans has been accelerated, be applied to satisfy other Secured Obligations. If the Borrowers are required to provide an amount of cash collateral hereunder as a result of the occurrence of an Event of Default, such amount (to the extent not applied as aforesaid) shall be returned to the Borrowers within three (3) Business Days after all such Events of Default have been cured or waived as confirmed in writing by the Lender.

(i) LC Exposure Determination. For all purposes of this Agreement, the amount of a Letter of Credit that, by its terms or the terms of any document related thereto, provides for one or more automatic increases in the stated amount thereof shall be deemed to be the maximum stated amount of such Letter of Credit after giving effect to all such increases, whether or not such maximum stated amount is in effect at the time of determination.

(j) Letters of Credit Issued for Account of Subsidiaries. Notwithstanding that a Letter of Credit issued or outstanding hereunder supports any obligations of, or is for the account of, a Subsidiary, or states that a Subsidiary is the “account party,” “applicant,” “customer,” “instructing party,” or the like of or for such Letter of Credit, and without derogating from any rights of the Lender (whether arising by contract, at law, in equity or otherwise) against such Subsidiary in respect of such Letter of Credit, the Borrowers (i) shall reimburse, indemnify and compensate the Lender hereunder for such Letter of Credit (including to reimburse any and all drawings thereunder) as if such Letter of Credit had been issued solely for the account of such Borrower and (ii) irrevocably waives any and all defenses that might otherwise be available to it as a guarantor or surety of any or all of the obligations of such Subsidiary in respect of such Letter of Credit. Each Borrower hereby acknowledges that the issuance of such Letters of Credit for its Subsidiaries inures to the benefit of such Borrower, and that such Borrower’s business derives substantial benefits from the businesses of such Subsidiaries.

SECTION 2.05. Funding of Borrowings. The Lender shall make each Loan to be made by it hereunder on the proposed date thereof available to the Borrowers by promptly crediting the amounts in immediately available funds, to the Funding Account(s); provided that CBF Revolving Loans made to finance the reimbursement of an LC Disbursement as provided in Section 2.04(d) shall be remitted to the Lender.

SECTION 2.06. Interest Elections.

(a) Each Borrowing initially shall be of the Type specified in the applicable Borrowing Request. Thereafter, the Borrower Representative may elect to convert such Borrowing to a different Type or to continue such Borrowing. The Borrower Representative may elect different options with respect to different portions of the affected Borrowing, and the Loans comprising each such portion shall be considered a separate Borrowing.

(b) To make an election pursuant to this Section, the Borrower Representative shall notify the Lender of such election by telephone or through Electronic System, if arrangements for doing so have been approved by the Lender, by the time that a Borrowing Request would be required under Section 2.03 if the Borrowers were requesting a Borrowing of the Type resulting from such election to be made on the effective date of such election. Each such telephonic Interest Election Request shall be irrevocable and shall be confirmed promptly by hand delivery, Electronic System or fax to the Lender of a written Interest Election Request in a form approved by the Lender and signed by the Borrower Representative.

(c) Each telephonic and written Interest Election Request (including requests submitted through Electronic System) shall specify the following information in compliance with Section 2.02:

(i) the name of the applicable Borrower and the Borrowing to which such Interest Election Request applies and, if different options are being elected with respect to different portions thereof, the portions thereof to be allocated to each resulting Borrowing (in which case the information to be specified pursuant to clauses (iii) and (iv) below shall be specified for each resulting Borrowing);

(ii) the effective date of the election made pursuant to such Interest Election Request, which shall be a Business Day; and

(iii) whether the resulting Borrowing is to be a CBFR Borrowing or a Eurodollar Borrowing.

Notwithstanding any contrary provision hereof, if an Event of Default has occurred and is continuing and the Lender so notifies the Borrower Representative, then, so long as an Event of Default is continuing (i) no outstanding Borrowing may be converted to or continued as a Eurodollar Borrowing and (ii) unless repaid, each Eurodollar Borrowing shall be converted to a CBFR Borrowing at the end of the Interest Period applicable thereto.

SECTION 2.07. Termination of Commitment.

(a) Unless previously terminated, (i) the Term Commitments shall terminate at 5:00 p.m., Eastern Standard Time, on the Effective Date, (ii) the Revolving Commitment shall terminate on the Revolving Credit Maturity Date, and (iii) the CapEx Commitment shall terminate on the CapEx Conversion Date.

(b) The Borrowers may at any time terminate the Revolving Commitment upon (i) the payment in full of all outstanding Revolving Loans and LC Disbursements, together with accrued and unpaid interest thereon, (ii) the cancellation and return of all outstanding Letters of Credit (or alternatively, with respect to each such Letter of Credit, the furnishing to the Lender of a cash deposit (or at the discretion of the Lender a backup standby letter of credit satisfactory to the Lender) in an amount equal to 105% of the LC Exposure as of such date), (iii) the payment in full of the accrued and unpaid fees, and (iv) the payment in full of all reimbursable expenses and other Obligations together with accrued and unpaid interest thereon.

(c) The Borrower Representative shall notify the Lender of any election to terminate the Revolving Commitment under paragraph (b) of this Section at least three (3) Business Days prior to the effective date of such termination, specifying such election and the effective date thereof. Each notice delivered by the Borrower Representative pursuant to this Section shall be irrevocable; provided that a notice of termination of the Revolving Commitment delivered by the Borrower Representative may state that such notice is conditioned upon the effectiveness of other credit facilities, in which case such notice may be revoked by the Borrower Representative (by notice to the Lender on or prior to the specified effective date) if such condition is not satisfied. Any termination of the Revolving Commitment shall be permanent.

SECTION 2.08. Repayment and Amortization of Loans; Evidence of Debt.

(a) The Borrowers hereby unconditionally promise to pay the Lender the then unpaid principal amount of each Revolving Loan on the Revolving Credit Maturity Date.

(b) The Borrowers hereby unconditionally promise to repay the Term A Loan to the Lender in consecutive monthly installments of \$111,111.11 on the first Business Day of each month, commencing on August 1, 2018, and continuing on the first Business Day of each month thereafter, with a final payment of all unpaid amounts owing on the Term A Loan to be paid in full in cash by the Borrowers on the Term A Maturity Date; provided, however, that if the Revolving Commitment shall be terminated for any reason, the unpaid amounts owing on the Term A Loan shall be immediately due and payable in full.

(c) The Borrowers shall repay the CapEx Term Loan in consecutive monthly installments based on a 5 year amortization schedule, on the first Business Day of each month, with the first of such payments commencing on the first Business Day of the first month following the CapEx Conversion Date, and continuing on the first Business Day of each month thereafter, with all unpaid amounts owing on the CapEx Loans and CapEx Term Loans to be paid on the 60th and final monthly payment; provided, however, that if the Revolving Commitment shall be terminated for any reason, the unpaid amounts owing on all CapEx Loans and CapEx Term Loans shall be immediately due and payable in full.

(d) Prior to any repayment of any Term Loan Borrowings of any Class under this Section, the Borrowers shall select the Borrowing or Borrowings of the applicable Class to be repaid and shall notify the Lender by telephone (confirmed by fax) of such selection not later than 11:00 a.m., Eastern Standard Time, three (3) Business Days before the scheduled date of such repayment. Each repayment of a Term Loan Borrowing shall be applied ratably to the Loans included in the repaid Term Loan Borrowing. Repayments of Term Loan Borrowings shall be accompanied by accrued interest on the amounts repaid.

(e) The Lender shall maintain in accordance with its usual practice an account or accounts evidencing the Indebtedness of the Borrowers to the Lender resulting from each Loan made by the Lender, including the amounts of principal and interest payable and paid to the Lender from time to time hereunder.

(f) The Lender 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 applicable thereto, if any, (ii) the amount of any principal or interest due and payable or to become due and payable from the Borrowers to the Lender hereunder and (iii) the amount of any sum received by the Lender hereunder.

(g) The entries made in the accounts maintained pursuant to paragraph (d) or (e) of this Section shall be prima facie evidence of the existence and amounts of the obligations recorded therein; provided that the failure of the Lender to maintain such accounts or any error therein shall not in any manner affect the obligation of the Borrowers to repay the Loans in accordance with the terms of this Agreement.

(h) The Lender may request that Loans made by it be evidenced by a promissory note. In such event, the Borrowers shall prepare, execute and deliver to the Lender a promissory note payable to the Lender (or, if requested by the Lender, to the Lender and its registered assigns) and in a form approved by the Lender. Thereafter, the Loans evidenced by such promissory note and interest thereon shall at all times (including after assignment pursuant to Section 8.04) be represented by one or more promissory notes in such form.

SECTION 2.09. Prepayment of Loans.

(a) The Borrowers shall have the right at any time and from time to time to prepay any Borrowing in whole or in part, subject to prior notice in accordance with paragraph (e) of this Section and, if applicable, payment of any break funding expenses under Section 2.14.

(b) In the event and on such occasion that the Revolving Exposure exceeds the Revolving Commitment, the Borrowers shall promptly prepay (and in any event within one Business Day) the Revolving Loans and/or LC Exposure (or, if no such Borrowings are outstanding, deposit cash collateral in the LC Collateral Account in an aggregate amount equal to such excess, in accordance with Section 2.04(h)). In addition, in the event and on such occasion that the CapEx Exposure exceeds the CapEx Commitment, the Borrowers shall prepay the CapEx Loans and/or CapEx Term Loans in an aggregate amount equal to such excess.

(c) In the event and on each occasion that any Net Proceeds are received by or on behalf of any Loan Party or any Subsidiary in respect of any Prepayment Event, the Borrowers shall, immediately after such Net Proceeds are received by any Loan Party or Subsidiary, prepay the Obligations and cash collateralize the LC Exposure as set forth in Section 2.09(d) below in an aggregate amount equal to 100% of such Net Proceeds, provided that, in the case of any event described in clause (a) or (b) of the definition of the term "Prepayment Event", if the Borrower Representative shall deliver to the Lender a certificate of a Financial Officer to the effect that the Loan Parties intend to apply the Net Proceeds from such event (or a portion thereof specified in such certificate), within 120 days after receipt of such Net Proceeds, to acquire (or replace or rebuild) real property, equipment or other tangible assets (excluding inventory) to be used in the business of the Loan Parties, and certifying that no Default has occurred and is continuing, then no prepayment shall be required pursuant to this paragraph in respect of the Net Proceeds specified in such certificate, provided that to the extent of any such Net Proceeds that have not been so applied by the end of such 120-day period, a prepayment shall be required at such time in an amount equal to such Net Proceeds that have not been so applied; provided further that the Borrowers shall not be permitted to make elections to use Net Proceeds to acquire (or replace or rebuild) real property, equipment or other tangible assets (excluding inventory) with respect to Net Proceeds in any fiscal year in an aggregate amount in excess of \$1,250,000.

(d) (i) All prepayments required to be made pursuant to Section 2.09(c) (as to the extent they arise from Equipment purchased with CapEx Loans) shall be applied, first to prepay the CapEx Loans and/or CapEx Term Loan (to be applied to installments of such Loans in inverse order of maturity, ratably in accordance with the then outstanding amounts thereof), and second to prepay the Term Loans (and in the event Term Loans of more than one Class shall be outstanding at the time, shall be allocated among the Term Loans pro rata based on the aggregate principal amounts of outstanding Term Loans of each such Class) as so allocated, and shall be applied to reduce the subsequent scheduled repayments of Term Loans of each Class to be made pursuant to Section 2.08 in inverse order of maturity, and third to prepay the Revolving Loans without a corresponding reduction in the Revolving Commitment and fourth to cash collateralize outstanding LC Exposure.

(ii) All prepayments required to be made pursuant to Section 2.09(c) (as to the extent they arise from any assets (other than Equipment purchased with CapEx Loans) shall be applied, first to prepay the Term Loans (and in the event Term Loans of more than one Class shall be outstanding at the time, shall be allocated among the Term Loans pro rata based on the aggregate principal amounts of outstanding Term Loans of each such Class) as so allocated, and shall be applied to reduce the subsequent scheduled repayments of Term Loans of each Class to be made pursuant to Section 2.08 in inverse order of maturity, and second to prepay the CapEx Loans and/or CapEx Term Loan (to be applied to installments of such Loans in inverse order of maturity, ratably in accordance with the then outstanding amounts thereof), and third to prepay the Revolving Loans without a corresponding reduction in the Revolving Commitment and fourth to cash collateralize outstanding LC Exposure; provided that all prepayments required to be made pursuant to Section 2.09(c) (with respect to Net Proceeds arising from any casualty or other insured damage to, or any taking under power of eminent domain or by condemnation or similar proceeding, to the extent they arise from casualties or losses to cash or Inventory) shall be applied, first, to prepay the Revolving Loans without a corresponding reduction in the Revolving Commitment and second, to cash collateralize outstanding LC Exposure, and third, to prepay the Term Loans (allocated and applied to subsequent scheduled repayments as set forth above) and fourth to prepay the CapEx Loans and/or CapEx Term Loan (allocated and applied to subsequent scheduled repayments as set forth above).

(e) The Borrower Representative shall notify the Lender by telephone (confirmed by fax) or through Electronic System, if arrangements for doing so have been approved by the Lender, of any prepayment under this Section: (i) in the case of prepayment of a Eurodollar Borrowing, not later than 10:00 a.m., Eastern Standard Time, three (3) Business Days before the date of prepayment, or (ii) in the case of prepayment of a CBFR Borrowing, not later than 10:00 a.m., Eastern Standard Time on the date of prepayment. Each such notice shall be irrevocable and shall specify the prepayment date and the principal amount of each Borrowing or portion thereof to be prepaid; provided that if a notice of prepayment is given in connection with a conditional notice of termination of the Revolving Commitment as contemplated by Section 2.07, then such notice of prepayment may be revoked if such notice of termination is revoked in accordance with Section 2.07. Each partial prepayment of any Revolving Borrowing or Term Loan shall be in an amount that would be permitted in the case of an advance of a Borrowing of the same Type as provided in Section 2.02, except as necessary to apply fully the required amount of a mandatory prepayment. Each prepayment of a Borrowing shall be applied ratably to the Loans included in the prepaid Borrowing. Prepayments shall be accompanied by (i) accrued interest to the extent required by Section 2.11 and (ii) break funding payments pursuant to Section 2.14.

SECTION 2.10. Fees.

(a) The Borrowers agree to pay to the Lender a commitment fee, which shall accrue at the Commitment Fee Applicable Rate on the daily amount of the undrawn portion of the Revolving Commitment of the Lender during the period from and including the Effective Date to but excluding the date on which the Lender's Revolving Commitment terminates; it being understood that the LC Exposure shall be included in the drawn portion of the Revolving Commitment for purposes of calculating the commitment fee. Accrued commitment fees shall be payable in arrears on the last day of March, June, September and December of each year and on the date on which the Revolving Commitment terminates, commencing on the first such date to occur after the date hereof. All commitment fees shall be computed on the basis of a year of 360 days and shall be payable for the actual number of days elapsed (including the first day but excluding the last day).

(b) The Borrowers agree to pay (i) to the Lender a letter of credit fee with respect to Letters of Credit, which shall accrue at the same Applicable Rate used to determine the interest rate applicable to Eurodollar Revolving Loans on the daily amount of the Lender's LC Exposure (excluding any portion thereof attributable to unreimbursed LC Disbursements) during the period from and including the Effective Date to but excluding the later of the date on which the Lender's Revolving Commitment terminates and the date on which the Lender ceases to have any LC Exposure, and (ii) the Lender's standard fees and commissions with respect to the issuance, amendment, cancellation, negotiation, transfer, presentment, renewal or extension of any Letter of Credit or processing of drawings thereunder. Letter of credit fees accrued through and including the last day of March, June, September and December of each year shall be payable on the third Business Day following such last day, commencing on the first such date to occur after the Effective Date; provided that all such fees shall be payable on the date on which the Revolving Commitment terminates and any such fees accruing after the date on which the Revolving Commitment terminates shall be payable on demand. Any other fees payable to the Lender pursuant to this paragraph shall be payable within ten (10) days after demand. All letter of credit fees shall be computed on the basis of a year of 360 days and shall be payable for the actual number of days elapsed (including the first day but excluding the last day).

(c) [Reserved].

(d) All fees payable hereunder shall be paid on the dates due, in immediately available funds, to the Lender. Fees paid shall not be refundable under any circumstances.

SECTION 2.11. Interest.

(a) The Loans comprising each CBFR Borrowing shall bear interest at the CB Floating Rate plus the Applicable Rate.

(b) The Loans comprising each Eurodollar Borrowing shall bear interest at the Adjusted LIBOR Rate for the Interest Period in effect for such Borrowing plus the Applicable Rate.

(c) Notwithstanding the foregoing, during the occurrence and continuance of an Event of Default, the Lender may, at its option, by written notice to the Borrower Representative, declare that (i) all Loans shall bear interest at 2% plus the rate otherwise applicable to such Loans as provided in the preceding paragraphs of this Section or (ii) in the case of any other amount outstanding hereunder, such amount shall accrue at 2% plus the rate applicable to such fee or other obligation as provided hereunder.

(d) Accrued interest on each Loan (for CBFR Loans, accrued through the last day of the prior calendar month) shall be payable in arrears on each Interest Payment Date for such Loan and, in the case of Revolving Loans, upon termination of the Revolving Commitment; provided that (i) interest accrued pursuant to paragraph (c) of this Section shall be payable on demand, (ii) in the event of any repayment or prepayment of any Loan (other than a prepayment of a CBFR Revolving Loan prior to the end of the Availability Period), accrued interest on the principal amount repaid or prepaid shall be payable on the date of such repayment or prepayment and (iii) in the event of any conversion of any Eurodollar Loan prior to the end of the current Interest Period therefor, accrued interest on such 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 CB Floating 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 CB Floating Rate, Adjusted LIBOR Rate or LIBOR Rate shall be determined by the Lender, and such determination shall be conclusive absent manifest error.

SECTION 2.12. Alternate Rate of Interest; Illegality.

(a) If prior to the commencement of any Interest Period for a Eurodollar Borrowing:

(i) the Lender determines (which determination shall be conclusive and binding absent manifest error) that adequate and reasonable means do not exist for ascertaining the Adjusted LIBOR Rate or the LIBOR Rate, as applicable (including, without limitation, by means of an Interpolated Rate or because the LIBOR Screen Rate is not available or published on a current basis) for such Interest Period; or

(ii) the Lender determines the Adjusted LIBOR Rate or the LIBOR Rate, as applicable, for such Interest Period will not adequately and fairly reflect the cost to the Lender of making or maintaining its Loans (or Loan) included in such Borrowing for such Interest Period;

then the Lender shall give notice thereof to the Borrower Representative by telephone, fax or through an Electronic System as provided in Section 8.01 as promptly as practicable thereafter and, until the Lender notifies the Borrower Representative that the circumstances giving rise to such notice no longer exist, (A) any Interest Election Request that requests the conversion of any Borrowing to, or continuation of any Borrowing as, a Eurodollar Borrowing shall be ineffective and any such Eurodollar Borrowing shall be repaid or converted into a CBFR Borrowing on the last day of the then current Interest Period applicable thereto, and (B) if any Borrowing Request requests a Eurodollar Borrowing, such Borrowing shall be made as a CBFR Borrowing.

(b) If the Lender determines that any Requirement of Law has made it unlawful, or if any Governmental Authority has asserted that it is unlawful, for the Lender or its applicable lending office to make, maintain, fund or continue any Eurodollar Borrowing, or any Governmental Authority has imposed material restrictions on the authority of the Lender to purchase or sell, or to take deposits of, dollars in the London interbank market, then, on notice thereof by the Lender to the Borrower Representative, any obligations of the Lender to make, maintain, fund or continue Eurodollar Loans or to convert CBFR Borrowings to Eurodollar Borrowings will be suspended until the Lender notifies the Borrower Representative that the circumstances giving rise to such determination no longer exist. Upon receipt of such notice, the Borrowers will upon demand from the Lender, either prepay or convert all Eurodollar Borrowings of the Lender to CBFR Borrowings, either on the last day of the Interest Period therefor, if the Lender may lawfully continue to maintain such Eurodollar Borrowings to such day, or immediately, if the Lender may not lawfully continue to maintain such Loans. Upon any such prepayment or conversion, the Borrowers will also pay accrued interest on the amount so prepaid or converted.

(c) If at any time the Lender determines (which determination shall be conclusive absent manifest error) that (i) the circumstances set forth in clause (a)(i) have arisen and such circumstances are unlikely to be temporary or (ii) the circumstances set forth in clause (a)(i) have not arisen but either (w) the supervisor for the administrator of the LIBOR Screen Rate has made a public statement that the administrator of the LIBOR Screen Rate is insolvent (and there is no successor administrator that will continue publication of the LIBOR Screen Rate), (x) the administrator of the LIBOR Screen Rate has made a public statement identifying a specific date after which the LIBOR Screen Rate will permanently or indefinitely cease to be published by it (and there is no successor administrator that will continue publication of the LIBOR Screen Rate), (y) the supervisor for the administrator of the LIBOR Screen Rate has made a public statement identifying a specific date after which the LIBOR Screen Rate will permanently or indefinitely cease to be published or (z) the supervisor for the administrator of the LIBOR Screen Rate or a Governmental Authority having jurisdiction over the Lender has made a public statement identifying a specific date after which the LIBOR Screen Rate may no longer be used for determining interest rates for loans, then the Lender and the Borrower Representative shall endeavor to establish an alternate rate of interest to the LIBOR Rate that gives due consideration to the then prevailing market convention for determining a rate of interest for bank loans in the United States at such time, 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 (but, for the avoidance of doubt, such related changes shall not include a reduction of the Applicable Rate). Until an alternate rate of interest shall be determined in accordance with this clause (c) (but, in the case of the circumstances described in clauses (ii)(w), (ii)(x) or (ii)(y) of the first sentence of this Section 2.12(c), only to the extent the LIBOR Screen Rate for such Interest Period is not available or published at such time on a current basis), (x) any Interest Election Request that requests the conversion of any Borrowing to, or continuation of any Borrowing as, a Eurodollar Borrowing shall be ineffective and any such Eurodollar Borrowing shall be repaid or converted into a CBFR Borrowing on the last day of the then current Interest Period applicable thereto, and (y) if any Borrowing Request requests a Eurodollar Borrowing, such Borrowing shall be made as a CBFR Borrowing; 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.

SECTION 2.13. Increased Costs.

(a) If any Change in Law shall:

(i) impose, modify or deem applicable any reserve, special deposit, liquidity or similar requirement (including any compulsory loan requirement, insurance charge or other assessment) against assets of, deposits with or for the account of, or credit extended by, the Lender (except any such reserve requirement reflected in the Adjusted LIBOR Rate); or

(ii) impose on the Lender or the London interbank market any other condition, cost or expense (other than Taxes) affecting this Agreement or Loans made by the Lender or any Letter of Credit; or

(iii) subject the Lender to any Taxes (other than (A) Indemnified Taxes, (B) Taxes described in clauses (b) through (d) 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;

and the result of any of the foregoing shall be to increase the cost to the Lender of making, continuing, converting into or maintaining any Loan (or of maintaining its obligation to make any such Loan) or to increase the cost to the Lender of issuing or maintaining any Letter of Credit or to reduce the amount of any sum received or receivable by the Lender hereunder (whether of principal, interest or otherwise), then the Borrowers will pay to the Lender such additional amount or amounts as will compensate the Lender for such additional costs incurred or reduction suffered.

(b) If the Lender determines that any Change in Law regarding capital or liquidity requirements has or would have the effect of reducing the rate of return on the Lender's capital or on the capital of the Lender's holding company as a consequence of this Agreement, the Commitment of or the Loans made by Letters of Credit issued by the Lender to a level below that which the Lender or the Lender's holding company could have achieved but for such Change in Law (taking into consideration the Lender's policies and the policies of the Lender's holding company with respect to capital adequacy and liquidity), then from time to time the Borrowers will pay to the Lender such additional amount or amounts as will compensate the Lender or the Lender's holding company for any such reduction suffered.

(c) A certificate of the Lender setting forth the amount or amounts necessary to compensate the Lender or its holding company, as the case may be, as specified in paragraph (a) or (b) of this Section shall be delivered to the Borrower Representative and shall be conclusive absent manifest error. The Borrowers shall pay the Lender the amount shown as due on any such certificate within ten (10) days after receipt thereof.

(d) Failure or delay on the part of the Lender to demand compensation pursuant to this Section shall not constitute a waiver of the Lender's right to demand such compensation; provided that the Borrowers shall not be required to compensate the Lender pursuant to this Section for any increased costs or reductions incurred more than 210 days prior to the date that the Lender notifies the Borrower Representative of the Change in Law giving rise to such increased costs or reductions and of the 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 210-day period referred to above shall be extended to include the period of retroactive effect thereof.

SECTION 2.14. Break Funding Payments. In the event of (a) the payment of any principal of any Eurodollar Loan other than on the last day of an Interest Period applicable thereto (including as a result of an Event of Default or as a result of any prepayment pursuant to Section 2.09), (b) the conversion of any Eurodollar Loan other than on the last day of the Interest Period applicable thereto, or (c) the failure to borrow, convert, continue or prepay any Eurodollar Loan on the date specified in any notice delivered pursuant hereto (regardless of whether such notice may be revoked under Section 2.07(c) and is revoked in accordance therewith), then, in any such event, the Borrowers shall compensate the Lender for the loss, cost and expense attributable to such event. A certificate of the Lender setting forth any amount or amounts that the Lender is entitled to receive pursuant to this Section shall be delivered to the Borrower Representative and shall be conclusive absent manifest error. The Borrowers shall pay the Lender the amount shown as due on any such certificate within ten (10) days after receipt thereof.

SECTION 2.15. Taxes.

(a) Withholding Taxes; Gross-Up; Payments Free of Taxes. Any and all payments by or on account of any obligation of any Loan Party under any Loan Document shall be made without deduction or withholding for any Taxes, except as required by applicable law. If any applicable 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 the applicable withholding agent shall be entitled to make such deduction or withholding and shall timely pay the full amount deducted or withheld to the relevant Governmental Authority in accordance with applicable law and, if such Tax is an Indemnified Tax, then the sum payable by the applicable Loan Party shall be increased as necessary so that after such deduction or withholding has been made (including such deductions and withholdings applicable to additional sums payable under this Section 2.15), the Lender receives an amount equal to the sum it would have received had no such deduction or withholding been made.

(b) Payment of Other Taxes by Loan Parties. The Loan Parties shall timely pay to the relevant Governmental Authority in accordance with applicable law, or at the option of the Lender, timely reimburse it for, Other Taxes.

(c) Evidence of Payment. As soon as practicable after any payment of Taxes by any Loan Party to a Governmental Authority pursuant to this Section 2.15, such Loan Party shall deliver to the Lender 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 reasonably satisfactory to the Lender.

(d) Indemnification by the Loan Parties. The Loan Parties shall jointly and severally indemnify the Lender, within ten (10) 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) payable or paid by the Lender or required to be withheld or deducted from a payment to the Lender and any reasonable expenses arising therefrom or with respect thereto, whether or not such Indemnified 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 the Borrower Representative by the Lender shall be conclusive absent manifest error.

(e) Treatment of Certain Refunds. If the 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 pursuant to this Section 2.15 (including by the payment of additional amounts pursuant to this Section 2.15), it shall pay to the indemnifying party an amount equal to such refund (but only to the extent of indemnity payments made under this Section 2.15 with respect to the Taxes giving rise to such refund), net of all out-of-pocket expenses (including Taxes) of the Lender and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund). Such indemnifying party, upon the request of the Lender, shall repay to the Lender the amount paid to the Lender (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) in the event the Lender is required to repay such refund to such Governmental Authority. Notwithstanding anything to the contrary in this paragraph (e), in no event will the Lender be required to pay any amount to any indemnifying party pursuant to this paragraph (e), the payment of which would place the Lender in a less favorable net after-Tax position than the 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 giving rise to such refund had never been paid. This paragraph (e) shall not be construed to require the Lender to make available its Tax returns (or any other information relating to its Taxes that it deems confidential) to the indemnifying party or any other Person.

(f) Survival. Each party's obligations under this Section 2.15 shall survive the resignation or replacement of the Lender or any assignment of rights by, or the replacement of, the Lender, the termination of the Commitment and the repayment, satisfaction or discharge of all obligations under any Loan Document.

(g) Defined Terms. For purposes of this Section 2.15, the term "applicable law" includes FATCA.

SECTION 2.16. Payments Generally; Allocation of Proceeds.

(a) The Borrowers shall make each payment required to be made by them hereunder (whether of principal, interest, fees or reimbursement of LC Disbursements, or of amounts payable under Sections 2.13, 2.14 or 2.15, or otherwise) prior to 2:00 p.m., Eastern Standard Time, on the date when due, in immediately available funds, without set-off or counterclaim. Any amounts received after such time on any date may, in the discretion of the Lender, 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 Lender at its offices at 1300 East Ninth Street - 13th floor, Cleveland, OH 44114-1573. Unless otherwise provided for herein, if any payment hereunder shall be due on a day that is not a Business Day, the date for payment shall be extended to the next succeeding Business Day, and, in the case of any payment accruing interest, interest thereon shall be payable for the period of such extension. All payments hereunder shall be made in dollars.

(b) Any proceeds of Collateral received by the Lender (i) not constituting either (A) a specific payment of principal, interest, fees or other sum payable under the Loan Documents (which shall be applied as specified by the Borrowers), or (B) a mandatory prepayment (which shall be applied in accordance with Section 2.09) or (ii) after an Event of Default has occurred and is continuing and the Lender so elects, such funds shall be applied ratably first, to pay any fees, indemnities, or expense reimbursements including amounts then due to the Lender from the Borrowers, second, to pay interest then due and payable on the Loans ratably, third, to prepay principal on the Loans and unreimbursed LC Disbursements and to pay any amounts owing with respect to Swap Agreement Obligations, ratably (with amounts allocated to the Term Loans and CapEx Loans and/or CapEx Term Loans of any Class applied to reduce the subsequent scheduled repayments of the Term Loans and CapEx Loans and/or CapEx Term Loans of such Class to be made pursuant to Section 2.08 in inverse order of maturity, fourth, to pay an amount to the Lender equal to one hundred five percent (105%) of the aggregate LC Exposure, to be held as cash collateral for such Obligations, fifth, to the payment of any amounts owing with respect to Banking Services Obligations, and sixth, to the payment of any other Secured Obligation due to the Lender from the Borrowers or any other Loan Party. The Lender shall have the continuing and exclusive right to apply and reverse and reapply any and all such proceeds and payments to any portion of the Secured Obligations.

(c) At the election of the Lender, all payments of principal, interest, LC Disbursements, fees, premiums, reimbursable expenses (including, without limitation, all reimbursement for fees, costs and expenses pursuant to Section 8.03), and other sums payable under the Loan Documents, may be paid from the proceeds of Borrowings made hereunder, whether made following a request by the Borrower Representative pursuant to Section 2.03 or a deemed request as provided in this Section or may be deducted from any deposit account of any Borrower maintained with the Lender. The Borrowers hereby irrevocably authorize (i) the Lender to make a Borrowing for the purpose of paying each payment of principal, interest and fees as it becomes due hereunder or any other amount due under the Loan Documents and agree that all such amounts charged shall constitute Loans, and that all such Borrowings shall be deemed to have been requested pursuant to Section 2.03 and (ii) the Lender to charge any deposit account of any Borrower maintained with the Lender for each payment of principal, interest and fees as it becomes due hereunder or any other amount due under the Loan Documents.

(d) The Lender may from time to time provide the Borrowers with account statements or invoices with respect to any of the Secured Obligations (the "Statements"). The Lender is under no duty or obligation to provide Statements, which, if provided, will be solely for the Borrowers' convenience. Statements may contain estimates of the amounts owed during the relevant billing period, whether of principal, interest, fees or other Secured Obligations. If the Borrowers pay the full amount indicated on a Statement on or before the due date indicated on such Statement, the Borrowers shall not be in default of payment with respect to the billing period indicated on such Statement; provided, that acceptance by the Lender of any payment that is less than the total amount actually due at that time (including but not limited to any past due amounts) shall not constitute a waiver of the Lender's right to receive payment in full at another time.

SECTION 2.17. Indemnity for Returned Payments. If after receipt of any payment which is applied to the payment of all or any part of the Obligations (including a payment effected through exercise of a right of setoff), the Lender is for any reason compelled to surrender such payment or proceeds to any Person because such payment or application of proceeds is invalidated, declared fraudulent, set aside, determined to be void or voidable as a preference, impermissible setoff, or a diversion of trust funds, or for any other reason (including pursuant to any settlement entered into by the Lender in its discretion), then the Obligations or part thereof intended to be satisfied shall be revived and continued and this Agreement shall continue in full force as if such payment or proceeds had not been received by the Lender. The provisions of this Section 2.17 shall be and remain effective notwithstanding any contrary action which may have been taken by the Lender in reliance upon such payment or application of proceeds. The provisions of this Section 2.17 shall survive the termination of this Agreement.

ARTICLE III

Representations and Warranties

Each Loan Party represents and warrants to the Lender that (and where applicable, agrees):

SECTION 3.01. Organization; Powers. Each Loan Party and each Subsidiary is duly organized, validly existing and in good standing under the laws of the jurisdiction of its organization, has all requisite power and authority to carry on its business as now conducted and, except where the failure to do so, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect, is qualified to do business in, and is in good standing in, every jurisdiction where such qualification is required.

SECTION 3.02. Authorization; Enforceability. The Transactions are within each Loan Party's organizational powers and have been duly authorized by all necessary organizational actions and, if required, actions by equity holders. Each Loan Document to which each Loan Party is a party has been duly executed and delivered by such Loan Party and constitutes a legal, valid and binding obligation of such Loan Party, enforceable in accordance with its terms, subject to applicable bankruptcy, insolvency, reorganization, moratorium or other laws affecting creditors' rights generally and subject to general principles of equity, regardless of whether considered in a proceeding in equity or at law.

SECTION 3.03. Governmental Approvals; No Conflicts. The Transactions (a) do not require any consent or approval of, registration or filing with, or any other action by, any Governmental Authority, except such as have been obtained or made and are in full force and effect and except for filings necessary to perfect Liens created pursuant to the Loan Documents, (b) will not violate any Requirement of Law applicable to any Loan Party or any Subsidiary, (c) will not violate or result in a default under any indenture, agreement or other instrument binding upon any Loan Party or any Subsidiary or the assets of any Loan Party or any Subsidiary, including, without limitation, the FFC Subordinated Debt Documents and the CAD Subordinated Debt Documents, or give rise to a right thereunder to require any payment to be made by any Loan Party or any Subsidiary, except in the case of subparts (b) and (c) to the extent that such violation or default, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect, and (d) will not result in the creation or imposition of any Lien on any asset of any Loan Party or any Subsidiary, except Liens created pursuant to the Loan Documents.

SECTION 3.04. Financial Condition; No Material Adverse Change.

(a) The Company has heretofore furnished to the Lender its consolidated balance sheet and statements of income, stockholders equity and cash flows (i) as of and for the fiscal year ended September 30, 2016, reported on by Meaden & Moore, independent public accountants, and (ii) as of and for the fiscal quarter and the portion of the fiscal year ended March 31, 2017, certified by a Financial Officer. Such financial statements present fairly, in all material respects, the financial position and results of operations and cash flows of the Company and its consolidated Subsidiaries as of such dates and for such periods in accordance with GAAP, subject to normal year-end audit adjustments all of which, when taken as a whole, would not be materially adverse and the absence of footnotes in the case of the statements referred to in clause (ii) above.

(b) No event, change or condition has occurred that has had, or could reasonably be expected to have, a Material Adverse Effect, since September 30, 2016.

SECTION 3.05. Properties.

(a) As of the date of this Agreement, Schedule 3.05 sets forth the address of each parcel of real property that is owned or leased by any Loan Party. Each of such leases and subleases is valid and enforceable in accordance with its terms and is in full force and effect, and no default by any party to any such lease or sublease exists, except to the extent the foregoing would not reasonably be expected to have a Material Adverse Effect. Each of the Loan Parties and each Subsidiary has good and indefeasible title to, or valid leasehold interests in, all of its real and personal property, free of all Liens other than those permitted by Section 6.02.

(b) Each Loan Party and each Subsidiary owns, or is licensed to use, all trademarks, tradenames, copyrights, patents and other intellectual property necessary to its business as currently conducted, a correct and complete list of which, as of the date of this Agreement, is set forth on Schedule 3.05, and the use thereof by each Loan Party and each Subsidiary does not infringe in any material respect upon the rights of any other Person, and each Loan Party's and each Subsidiary's rights thereto are not subject to any licensing agreement or similar arrangement (other than (i) restrictions relating to software licenses that may limit such Loan Party's ability to transfer or assign any such agreement to a third party and (ii) licensing agreements or similar agreements that do not materially impair the ability of the Lender to avail itself of its rights of disposal and other rights granted under the Collateral Documents in respect of Inventory).

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 any Loan Party, threatened against or affecting any Loan Party or any Subsidiary (i) as to which there is a reasonable possibility of an adverse determination and that, if adversely determined, would reasonably be expected, individually or in the aggregate, to result in a Material Adverse Effect (other than the Disclosed Matters set forth on Schedule 3.06) or (ii) that directly involve any Loan Document or the Transactions.

(b) Except for the Disclosed Matters, (i) no Loan Party or any Subsidiary has received notice of any claim with respect to any Environmental Liability or knows of any basis for any Environmental Liability which would reasonably be expected to have a Material Adverse Effect and (ii) and except with respect to any other matters that, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect, no Loan Party or any Subsidiary (A) has failed to comply with any Environmental Law or to obtain, maintain or comply with any permit, license or other approval required under any Environmental Law (B) has become subject to any Environmental Liability, (C) has received notice of any claim with respect to any Environmental Liability or (D) knows of any basis for any Environmental Liability.

(c) Since the date of this Agreement, there has been no change in the status of the Disclosed Matters that, individually or in the aggregate, has resulted in, or materially increased the likelihood of, a Material Adverse Effect.

SECTION 3.07. Compliance with Laws and Agreements; No Default. Except where the failure to do so, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect, each Loan Party and each Subsidiary is in compliance with (i) all Requirements of Law applicable to it or its property and (ii) all indentures, agreements and other instruments binding upon it or its property. No Default has occurred and is continuing.

SECTION 3.08. Investment Company Status. No Loan Party or any Subsidiary is an "investment company" as defined in, or subject to regulation under, the Investment Company Act of 1940.

SECTION 3.09. Taxes. Each Loan Party and each Subsidiary has timely filed or caused to be filed all federal, state and other Tax returns and reports required to have been filed and has paid or caused to be paid all federal, state and other Taxes required to have been paid by it, except (a) Taxes that are being contested in good faith by appropriate proceedings and for which such Loan Party or such Subsidiary, as applicable, has set aside on its books adequate reserves or (b) to the extent that the failure to do so could not be expected to result in a Material Adverse Effect. No tax liens have been filed and no claims are being asserted with respect to any such taxes.

SECTION 3.10. ERISA. No ERISA Event has occurred or is reasonably expected to occur that, when taken together with all other such ERISA Events for which liability is reasonably expected to occur, could reasonably be expected to result in a Material Adverse Effect. The present value of all accumulated benefit obligations under each Plan (based on the assumptions used for purposes of Statement of Financial Accounting Standards No. 87) did not, as of the date of the most recent financial statements reflecting such amounts, exceed the fair market value of the assets of such Plan, and the present value of all accumulated benefit obligations of all underfunded Plans (based on the assumptions used for purposes of Statement of Financial Accounting Standards No. 87) did not, as of the date of the most recent financial statements reflecting such amounts, exceed by more than \$625,000 the fair market value of the assets of all such underfunded Plans.

SECTION 3.11. Disclosure. (a) The Loan Parties have disclosed to the Lender all agreements, instruments and corporate or other restrictions to which any Loan Party or any Subsidiary is subject, and all other matters known to it, that, individually or in the aggregate, could reasonably be expected to result in a Material Adverse Effect. None of the reports, financial statements, certificates or other information furnished by or on behalf of any Loan Party or any Subsidiary to the Lender in connection with the negotiation of this Agreement or any other Loan Document (as modified or supplemented by other information so furnished) contains any material misstatement of fact or omits to state any material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading; provided that, with respect to projected financial information, the Loan Parties represent only that such information was prepared in good faith based upon assumptions believed to be reasonable at the time delivered and, if such projected financial information was delivered prior to the Effective Date, as of the Effective Date, it being understood that projections are subject to inherent uncertainties and contingencies which may be outside the control of any Loan Party and that no assurance can be given that such projected financial information will be realized.

(b) As of the Second Amendment Effective Date, to the best knowledge of each Borrower, the information included in the Beneficial Ownership Certification provided on or prior to the Second Amendment Effective Date to the Lender in connection with this Agreement is true and correct in all respects.

SECTION 3.12. Material Agreements. All material agreements and contracts to which any Loan Party is a party or is bound as of the date of this Agreement are listed on Schedule 3.12. Except as would not reasonably be expected to have a Material Adverse Effect, no Loan Party is in default in the performance, observance or fulfillment of any of the obligations, covenants or conditions contained in (i) any material agreement to which it is a party or (ii) any agreement or instrument evidencing or governing Indebtedness.

SECTION 3.13. Solvency.

(a) Immediately after the consummation of the Transactions to occur on the Effective Date, (i) the fair value of the assets of each Loan Party, at a fair valuation, will exceed its debts and liabilities, subordinated, contingent or otherwise; (ii) the present fair saleable value of the property of each Loan Party will be greater than the amount that will be required to pay the probable liability of its debts and other liabilities, subordinated, contingent or otherwise, as such debts and other liabilities become absolute and matured; (iii) each Loan Party will be able to pay its debts and liabilities, subordinated, contingent or otherwise, as such debts and liabilities become absolute and matured; and (iv) no Loan Party will have unreasonably small capital with which to conduct the business in which it is engaged as such business is now conducted and is proposed to be conducted after the Effective Date.

(b) No Loan Party intends to, nor will permit any Subsidiary to, and no Loan Party believes that it or any Subsidiary will, incur debts beyond its ability to pay such debts as they mature, taking into account the timing of and amounts of cash to be received by it or any such Subsidiary and the timing of the amounts of cash to be payable on or in respect of its Indebtedness or the Indebtedness of any such Subsidiary.

SECTION 3.14. Insurance. Schedule 3.14 sets forth a description of all insurance maintained by or on behalf of the Loan Parties and their Subsidiaries as of the Effective Date. As of the Effective Date, all premiums in respect of such insurance have been paid. The Loan Parties believe that the insurance maintained by or on behalf of the Loan Parties and their Subsidiaries is adequate and is customary for companies engaged in the same or similar businesses operating in the same or similar locations.

SECTION 3.15. Capitalization and Subsidiaries. Schedule 3.15 sets forth (a) a correct and complete list of the name and relationship to the Company of each Subsidiary, (b) other than with respect to Hickok, a true and complete listing of each class of each Loan Parties' authorized Equity Interests, of which all of such issued Equity Interests are validly issued, outstanding, fully paid and non-assessable, and owned beneficially and of record by the Persons identified on Schedule 3.15, and (c) the type of entity of the Company and each Subsidiary. All of the issued and outstanding Equity Interests owned by any Loan Party have been (to the extent such concepts are relevant with respect to such ownership interests) duly authorized and issued and are fully paid and non-assessable.

SECTION 3.16. Security Interest in Collateral. The provisions of this Agreement and the other Loan Documents create legal and valid Liens on all the Collateral in favor of the Lender, for the benefit of the Secured Parties, and such Liens constitute perfected and continuing Liens on the Collateral, securing the Secured Obligations, enforceable against the applicable Loan Party and all third parties, and having priority over all other Liens on the Collateral except in the case of (a) Permitted Encumbrances, to the extent any such Permitted Encumbrances would have priority over the Liens in favor of the Lender pursuant to any applicable law and (b) Liens perfected only by possession (including possession of any certificate of title), to the extent the Lender has not obtained or does not maintain possession of such Collateral.

SECTION 3.17. Employment Matters. As of the Effective Date, there are no strikes, lockouts or organized slowdowns against any Loan Party or any Subsidiary pending or, to the knowledge of any Loan Party, threatened. The hours worked by and payments made to employees of the Loan Parties and their Subsidiaries have not been in violation of the Fair Labor Standards Act or any other applicable federal, state, local or foreign law dealing with such matters. All payments due from any Loan Party or any Subsidiary, or for which any claim may be made against any Loan Party or any Subsidiary, on account of wages and employee health and welfare insurance and other benefits, have been paid or accrued as a liability on the books of such Loan Party or such Subsidiary.

SECTION 3.18. Federal Reserve Regulations. No part of the proceeds of any Loan or Letter of Credit has been used or will be used, whether directly or indirectly, for any purpose that entails a violation of any of the Regulations of the Board, including Regulations T, U and X.

SECTION 3.19. Use of Proceeds. The proceeds of the Loans have been used and will be used, whether directly or indirectly as set forth in Section 5.08.

SECTION 3.20. No Burdensome Restrictions. No Loan Party is subject to any Burdensome Restrictions except Burdensome Restrictions permitted under Section 6.10.

SECTION 3.21. Anti-Corruption Laws and Sanctions. Each Loan Party has implemented and maintains in effect policies and procedures designed to ensure compliance by such Loan Party, its Subsidiaries and their respective directors, officers, employees and agents with Anti-Corruption Laws and applicable Sanctions, and such Loan Party, its Subsidiaries and their respective officers and employees and to the knowledge of such Loan Party its directors and agents, are in compliance with Anti-Corruption Laws and applicable Sanctions in all material respects. None of (a) any Loan Party, any Subsidiary or, to the knowledge of any such Loan Party or Subsidiary, any of their respective directors, officers or employees, or (b) to the knowledge of any such Loan Party or Subsidiary, any agent of such Loan Party or any Subsidiary that will act in any capacity in connection with or benefit from the credit facility established hereby, is a Sanctioned Person. No Borrowing or Letter of Credit, use of proceeds, Transaction or other transaction contemplated by this Agreement or the other Loan Documents will violate Anti-Corruption Laws or applicable Sanctions.

SECTION 3.22. FFC Subordinated Debt Documents. The Loan Parties have delivered and the Lender has received complete copies of the FFC Subordinated Debt Documents (including, in each case, all exhibits, schedules and disclosure letters referred to therein or delivered pursuant thereto, if any) and, in each case, all amendments thereto and other side letters or agreements affecting the terms thereof. Since the date hereof, none of such documents and agreements has been amended or supplemented, nor have any of the provisions thereof been waived, except pursuant to a written agreement or instrument which has heretofore been delivered to the Lender or which would not be adverse to the interests of the Lender under the Loan Documents. Each of the representations made by each Loan Party in the FFC Subordinated Debt Documents is true and correct in all material respects.

SECTION 3.23. Air Enterprises Acquisition Documents. The Loan Parties have delivered and the Lender has received complete copies of the Air Enterprises Acquisition Documents (including, in each case, all exhibits, schedules and disclosure letters referred to therein or delivered pursuant thereto, if any) and, in each case, all amendments thereto and other side letters or agreements affecting the terms thereof. Since the date hereof, none of such documents and agreements has been amended or supplemented, nor have any of the provisions thereof been waived, except pursuant to a written agreement or instrument which has heretofore been delivered to the Lender or which would not be adverse to the interests of the Lender under the Loan Documents. Each of the representations made by each Loan Party in the Air Enterprises Acquisition Documents is true and correct in all material respects.

SECTION 3.24. [Reserved].

SECTION 3.25. CAD Acquisition Documents. The Loan Parties have delivered and the Lender has received complete copies of the CAD Acquisition Documents (including, in each case, all exhibits, schedules and disclosure letters referred to therein or delivered pursuant thereto, if any) and, in each case, all amendments thereto and other side letters or agreements affecting the terms thereof. Since the First Amendment Effective Date, none of such documents and agreements has been amended or supplemented, nor have any of the provisions thereof been waived, except pursuant to a written agreement or instrument which has heretofore been delivered to the Lender or which would not be adverse to the interests of the Lender under the Loan Documents. Each of the representations made by each Loan Party in the CAD Acquisition Documents is true and correct in all material respects.

SECTION 3.26. CAD Subordinated Debt Documents. The Loan Parties have delivered and the Lender has received complete copies of the CAD Subordinated Debt Documents (including, in each case, all exhibits, schedules and disclosure letters referred to therein or delivered pursuant thereto, if any) and, in each case, all amendments thereto and other side letters or agreements affecting the terms thereof. Since the First Amendment Effective Date, none of such documents and agreements has been amended or supplemented, nor have any of the provisions thereof been waived, except pursuant to a written agreement or instrument which has heretofore been delivered to the Lender or which would not be adverse to the interests of the Lender under the Loan Documents. Each of the representations made by each Loan Party in the CAD Subordinated Debt Documents is true and correct in all material respects.

SECTION 3.27. Permitted Acquisition Documents. With respect to each Permitted Acquisition, the Loan Parties have delivered and the Lender has received complete copies of the material agreements and other documents evidencing each such Permitted Acquisition (including, in each case, all exhibits, schedules and disclosure letters referred to therein or delivered pursuant thereto, if any) and, in each case, all amendments thereto and other side letters or agreements affecting the terms thereof. With respect to each Permitted Acquisition, since the effective date of such Permitted Acquisition, none of such material agreements and documents has been amended or supplemented, nor have any of the provisions thereof been waived, except pursuant to a written agreement or instrument which has heretofore been delivered to the Lender or which would not be adverse to the interests of the Lender under the Loan Documents.

ARTICLE IV

Conditions

SECTION 4.01. Effective Date. The obligations of the Lender to make Loans and to issue Letters of Credit hereunder shall not become effective until the date on which each of the following conditions is satisfied (or waived in accordance with Section 8.02):

(a) Credit Agreement and Loan Documents. The Lender (or its counsel) shall have received (i) from each party hereto either (A) a counterpart of this Agreement signed on behalf of such party or (B) written evidence satisfactory to the Lender (which may include fax or other electronic transmission of a signed signature page of this Agreement) that such party has signed a counterpart of this Agreement and (ii) duly executed copies of the Loan Documents and such other certificates, documents, instruments and agreements as the Lender shall reasonably request in connection with the transactions contemplated by this Agreement and the other Loan Documents, including a written opinion of the Loan Parties' counsel, addressed to the Lender in substantially the form of Exhibit A.

(b) Financial Statements and Projections. The Lender shall have received (i) audited consolidated financial statements of the Company for the 2015 and 2016 fiscal years, (ii) unaudited interim consolidated financial statements of the Company for each fiscal quarter ended after the date of the latest applicable financial statements delivered pursuant to clause (i) of this paragraph as to which such financial statements are available, and such financial statements shall not, in the reasonable judgment of the Lender, reflect any material adverse change in the consolidated financial condition of the Loan Parties, as reflected in the audited, consolidated financial statements described in clause (i) of this paragraph, and (iii) satisfactory Projections through 2019.

(c) Closing Certificates; Certified Certificate of Incorporation; Good Standing Certificates. The Lender shall have received (i) a certificate of each Loan Party, dated the Effective Date and executed by its Secretary or Assistant Secretary, which shall (A) certify the resolutions of its Board of Directors, members or other body authorizing the execution, delivery and performance of the Loan Documents to which it is a party, (B) identify by name and title and bear the signatures of the officers of such Loan Party authorized to sign the Loan Documents to which it is a party and, in the case of a Borrower, its Financial Officers, and (C) contain appropriate attachments, including the charter, articles or certificate of organization or incorporation of each Loan Party certified by the relevant authority of the jurisdiction of organization of such Loan Party and a true and correct copy of its bylaws or operating, management or partnership agreement, or other organizational or governing documents, and (ii) a long form good standing certificate for each Loan Party from its jurisdiction of organization.

(d) No Default Certificate. The Lender shall have received a certificate, signed by a Financial Officer of each other Loan Party, dated as of the Effective Date (i) stating that no Default has occurred and is continuing, (ii) stating that the representations and warranties contained in the Loan Documents are true and correct as of such date, and (iii) certifying as to any other factual matters as may be reasonably requested by the Lender.

(e) Fees. The Lender shall have received all fees required to be paid, and all expenses required to be reimbursed for which invoices have been presented (including the reasonable fees and expenses of legal counsel), on or before the Effective Date. All such amounts will be paid with proceeds of Loans made on the Effective Date and will be reflected in the funding instructions given by the Borrower Representative to the Lender on or before the Effective Date.

(f) Lien Searches. The Lender shall have received the results of a recent lien search in the jurisdiction of organization of each Loan Party and each jurisdiction where assets of the Loan Parties are located, and such search shall reveal no Liens on any of the assets of the Loan Parties except for liens permitted by Section 6.02 or discharged on or prior to the Effective Date pursuant to a pay-off letter or other documentation satisfactory to the Lender.

(g) Pay-off Letter. The Lender shall have received satisfactory pay-off letters for all existing Indebtedness required to be repaid and which confirms that all Liens upon any of the property of the Loan Parties constituting Collateral will be terminated concurrently with such payment and all letters of credit issued or guaranteed as part of such Indebtedness shall have been cash collateralized or supported by a Letter of Credit.

(h) Funding Account. The Lender shall have received a notice setting forth the deposit account of the Borrowers (the "Funding Account") to which the Lender is authorized by the Borrowers to transfer the proceeds of any Borrowings requested or authorized pursuant to this Agreement.

(i) Collateral Access and Control Agreements. The Lender shall have received each of (i) a Collateral Access Agreement required to be provided pursuant to the Security Agreement and (ii) a deposit account control agreement required to be provided pursuant to the Security Agreement.

(j) Solvency. The Lender shall have received a solvency certificate signed by a Financial Officer of the Company dated the Effective Date in form and substance reasonably satisfactory to the Lender.

(k) Borrowing Base Certificate. The Lender shall have received a Borrowing Base Certificate (as defined in the Credit Agreement as in effect on the Effective Date) which calculates the Borrowing Base (as defined in the Credit Agreement as in effect on the Effective Date) as of the end of the week immediately preceding the Effective Date.

(l) Closing Availability. After giving effect to all Borrowings to be made on the Effective Date and the issuance of any Letters of Credit on the Effective Date and payment of all fees and expenses due hereunder, and with all of the Loan Parties' Indebtedness, the Borrowers' Availability shall not be less than \$500,000.

(m) Pledged Equity Interests; Stock Powers; Pledged Notes. The Lender shall have received (i) the certificates representing the Equity Interests pledged pursuant to the Security Agreement, together with an undated stock power for each such certificate executed in blank by a duly authorized officer of the pledgor thereof and (ii) each promissory note (if any) pledged to the Lender pursuant to the Security Agreement endorsed (without recourse) in blank (or accompanied by an executed transfer form in blank) by the pledgor thereof.

(n) Filings, Registrations and Recordings. Each document (including any Uniform Commercial Code financing statement) required by the Collateral Documents or under law or reasonably requested by the Lender to be filed, registered or recorded in order to create in favor of the Lender, for the benefit of the Secured Parties, a perfected Lien on the Collateral described therein, prior and superior in right to any other Person (other than with respect to Liens expressly permitted by Section 6.02), shall be in proper form for filing, registration or recordation.

(o) Air Enterprises Acquisition. In connection with the Air Enterprises Acquisition, Borrowers shall have delivered to Lender:

(i) a fully executed Air Enterprises Assignment of Rights;

(ii) copies of the Air Enterprises Acquisition Documents having been certified by a Financial Officer of the Company as true and correct;

(iii) any other evidence that Lender reasonably requests, in form and substance satisfactory to Lender, that the Air Enterprises Acquisition has been completed;

(iv) evidence that all necessary documents or instruments have been filed with all appropriate Governmental Authorities;

(v) evidence that all necessary approvals have been obtained, other than the consents of certain customers as described on Schedule 4.01; and

(vi) satisfactory evidence that no Person has or is threatening to oppose or challenge the Air Enterprises Acquisition or has or threatened to file any litigation or similar action opposing or challenging the Air Enterprises Acquisition or alleging that such acquisition violates any applicable laws; and

(vii) all legal opinions, if any, delivered by any party in connection with the Air Enterprises Acquisition (including from company counsel or buyer's counsel), with an agreement from each opinion giver allowing Lender to rely on such opinions.

(p) FFC Subordinated Debt Documents. The Lender shall have received (i) fully signed copies of the FFC Subordinated Debt Documents, certified to the Lender as true and correct, which such documents shall be in form and substance satisfactory to the Lender and its counsel, and (ii) the FFC Subordination Agreement fully signed by all parties, which such agreement shall be in form and substance satisfactory to the Lender and its counsel.

(q) Insurance. Subject to Section 5.15 hereof, the Lender shall have received evidence of insurance coverage in compliance with the terms of Section 5.10 of this Agreement and Section 4.12 of the Security Agreement.

(r) Hickok Holdings Dissolution. The Lender shall have received evidence that Hickok Holdings LLC, an Ohio limited liability company, has been dissolved.

(s) Legal Due Diligence. The Lender and its counsel shall have completed all legal due diligence, including without limitation, appraisals and field exams, the results of which shall be satisfactory to Lender in its sole discretion.

(t) USA PATRIOT Act, Etc. The Lender shall have received all documentation and other information required by bank regulatory authorities under applicable “know your customer” and anti-money laundering rules and regulations, including USA PATRIOT Act, and a properly completed and signed IRS Form W-8 or W-9, as applicable, for each Loan Party.

(u) [Reserved].

(v) Other Documents. The Lender shall have received such other documents as the Lender or its counsel may have reasonably requested.

The Lender shall notify the Borrowers of the Effective Date, and such notice shall be conclusive and binding. Notwithstanding the foregoing, the obligations of the Lender to make Loans and to issue Letters of Credit hereunder shall not become effective unless each of the foregoing conditions is satisfied (or waived pursuant to Section 8.02) at or prior to 2:00 p.m., Eastern Standard Time, on June 1, 2017 (and, in the event such conditions are not so satisfied or waived, the Commitment shall terminate at such time).

SECTION 4.02. Each Credit Event. The obligation of the Lender to make a Loan on the occasion of any Borrowing, and to issue, amend, renew or extend any Letter of Credit, is subject to the satisfaction of the following conditions:

(a) Representations and warranties of the Loan Parties set forth in the Loan Documents shall be true and correct in all material respects with the same effect as though made on and as of the date of such Borrowing or the date of issuance, amendment, renewal or extension of such Letter of Credit, as applicable (it being understood and agreed that any representation or warranty which by its terms is made as of a specified date shall be required to be true and correct in all material respects only as of such specified date, and that any representation or warranty which is subject to any materiality qualifier shall be required to be true and correct in all respects).

(b) At the time of and immediately after giving effect to such Borrowing or the issuance, amendment, renewal or extension of such Letter of Credit, as applicable, no Default shall have occurred and be continuing.

(c) After giving effect to any Borrowing or the issuance, amendment, renewal or extension of any Letter of Credit, Availability shall not be less than zero.

(d) No event shall have occurred and no condition shall exist which has or could be reasonably expected to have a Material Adverse Effect.

Each Borrowing and each issuance, amendment, renewal or extension of a Letter of Credit shall be deemed to constitute a representation and warranty by the Borrowers on the date thereof as to the matters specified in paragraphs (a) and (b) and (d) of this Section.

ARTICLE V

Affirmative Covenants

Until the Commitment shall have expired or been terminated and the principal of and interest on each Loan and all fees payable hereunder shall have been paid in full (other than contingent or indemnity obligations for which no claim has been made) and all Letters of Credit shall have expired or terminated (or have been cash collateralized pursuant to the terms hereof), in each case without any pending draw, and all LC Disbursements shall have been reimbursed, each Loan Party executing this Agreement covenants and agrees, jointly and severally with all of the other Loan Parties, with the Lender that:

SECTION 5.01. Financial Statements and Other Information. The Borrowers will furnish to the Lender:

(a) within 120 days after the end of each fiscal year of the Company, if not filed electronically with the SEC and publicly available for retrieval by the Lender after notice from the Company as described below, its audited consolidated balance sheet and related statements of operations, stockholders' equity and cash flows as of the end of and for such year, setting forth in each case in comparative form the figures for the previous fiscal year, all reported on by independent public accountants acceptable to the Lender (without a "going concern" or like qualification, commentary or exception, and without any qualification or exception as to the scope of such audit) to the effect that such consolidated financial statements present fairly in all material respects the financial condition and results of operations of the Company and its consolidated Subsidiaries on a consolidated basis in accordance with GAAP consistently applied, accompanied by any management letter prepared by said accountants; provided that notice by the Company to Lender that the Company has filed with the SEC its Form 10-K annual report of the Company for such annual period within such time period shall be deemed to satisfy the requirements of this subsection (a), so long as such financial statements and reports shall be readily available to Lender.

(b) within 45 days after the end of each of the first three fiscal quarters of the Company, if not filed electronically with the SEC and publicly available for retrieval by the Lender after notice from the Company as described below, its consolidated balance sheet and related statements of operations, stockholders' equity and cash flows as of the end of and for such fiscal quarter and the then elapsed portion of such fiscal year, setting forth in each case in comparative form the figures for the corresponding period or periods of (or, in the case of the balance sheet, as of the end of) the previous fiscal year, all certified by a Financial Officer of the Borrower Representative as presenting fairly in all material respects the financial condition and results of operations of the Company and its consolidated Subsidiaries on a consolidated basis in accordance with GAAP consistently applied, subject to normal year-end audit adjustments and the absence of footnotes; provided that notice by the Company to Lender that the Company has filed with the SEC its Form 10-Q quarterly report of the Company for such quarterly period within such time period shall be deemed to satisfy the requirements of this subsection (b), so long as such financial statements and reports shall be readily available to Lender.

(c) concurrently with any delivery of financial statements under clause (a) or (b) above (collectively or individually, as the context requires, the “Financial Statements”), a certificate of a Financial Officer of the Borrower Representative in substantially the form of Exhibit C (i) certifying, in the case of the Financial Statements delivered under clause (a) or (b) above, as presenting fairly in all material respects the financial condition and results of operations of the Company and its consolidated Subsidiaries on a consolidated basis in accordance with GAAP consistently applied, subject to normal year-end audit adjustments and the absence of footnotes, (ii) certifying as to whether a Default has occurred and, if a Default has occurred, specifying the details thereof and any action taken or proposed to be taken with respect thereto, (iii) setting forth reasonably detailed calculations demonstrating compliance with Sections 6.12, and (iv) stating whether any change in GAAP or in the application thereof has occurred since the date of the audited financial statements referred to in Section 3.04 and, if any such change has occurred, specifying the effect of such change on the Financial Statements accompanying such certificate;

(d) [reserved];

(e) as soon as available, but in any event no later than 60 days after the end of each fiscal year of the Company, a copy of the plan and forecast (including a projected consolidated balance sheet, income statement and cash flow statement) of the Company for each month of the upcoming fiscal year (the “Projections”) in form reasonably satisfactory to the Lender;

(f) [reserved];

(g) [reserved];

(h) [reserved];

(i) promptly after the same become publicly available, copies of all periodic and other reports, proxy statements and other materials filed by any Loan Party or any Subsidiary with the SEC, or any Governmental Authority succeeding to any or all of the functions of the SEC, or with any national securities exchange, or distributed by the Company to its shareholders generally, as the case may be; provided that prompt notice by the Company to Lender that the Company has filed any such reports, proxy statements or other materials with the SEC or any succeeding Governmental Authority shall be deemed to satisfy the requirements of this subsection (i), so long as such reports, proxy statements or other materials shall be readily available to Lender;

(j) promptly following any request therefor, information and documentation reasonably requested by the Lender for purposes of compliance with applicable “know your customer” and anti-money laundering rules and regulations, including the USA PATRIOT Act and the Beneficial Ownership Regulation; and

(k) promptly following any request therefor, such other information regarding the operations, business affairs and financial condition of any Loan Party, or compliance with the terms of this Agreement, as the Lender may reasonably request.

SECTION 5.02. Notices of Material Events; Name Change. The Loan Parties will furnish to the Lender prompt (but in any event within any time period that may be specified below) written notice of the following:

- (a) the occurrence of any Default;
- (b) receipt of any notice of any investigation by a Governmental Authority or any litigation or proceeding commenced or, to a Loan Party's knowledge, threatened against any Loan Party or any Subsidiary that (i) seeks damages in excess of \$1,250,000, (ii) seeks injunctive relief, (iii) is asserted or instituted against any Plan, its fiduciaries or its assets, that could reasonably be expected to result in liability of the Loan Parties and their Subsidiaries in an aggregate amount exceeding \$1,250,000 (iv) alleges criminal misconduct by any Loan Party or any Subsidiary, (v) alleges the violation of, or seeks to impose remedies under, any Environmental Law or related Requirement of Law, or seeks to impose Environmental Liability, in each case that could reasonably be expected to result in liability of the Loan Parties and their Subsidiaries in an aggregate amount exceeding \$1,250,000 (vi) asserts liability on the part of any Loan Party or any Subsidiary in excess of \$1,250,000 in respect of any tax, fee, assessment, or other governmental charge, or (vii) involves any product recall in excess of \$1,250,000 in the aggregate;
- (c) the occurrence of any ERISA Event that, alone or together with any other ERISA Events that have occurred, could reasonably be expected to result in liability of the Loan Parties and their Subsidiaries in an aggregate amount exceeding \$1,250,000;
- (d) within two (2) Business Days after the occurrence thereof, any Loan Party entering into a Swap Agreement or an amendment to a Swap Agreement, together with copies of all agreements evidencing such Swap Agreement or amendment;
- (e) the occurrence of, or alleged occurrence of, any event of default under the FFC Subordinated Debt Documents, the Air Enterprises Acquisition Documents, the CAD Acquisition Documents or the CAD Subordinated Debt Documents;
- (f) any change in the information provided in the Beneficial Ownership Certification delivered to such Lender that would result in a change to the list of beneficial owners identified in such certification; and
- (g) any other development that results in, or could reasonably be expected to result in, a Material Adverse Effect.

In addition, the Loan Parties will furnish to Lender the Hickok Air Enterprises Name Change Documents after such documents have been filed with the Secretary of the State of Delaware.

Each notice delivered under this Section shall be accompanied by a statement of a Financial Officer or other executive officer of the Borrower Representative setting forth the details of the event or development requiring such notice and any action taken or proposed to be taken with respect thereto.

SECTION 5.03. Existence; Conduct of Business. Each Loan Party will, and will cause each Subsidiary to, (a) do or cause to be done all things necessary to preserve, renew and keep in full force and effect its legal existence and, except as would not reasonably be expected to have a 'Material Adverse Effect, the rights, qualifications, licenses, permits, franchises, governmental authorizations, intellectual property rights, licenses and permits material to the conduct of its business, and maintain all requisite authority to conduct its business in each jurisdiction in which its business is conducted; provided that the foregoing shall not prohibit any merger, consolidation, liquidation or dissolution permitted under Section 6.03 and (b) carry on and conduct its business in substantially the same manner and in substantially the same fields of enterprise as it is presently conducted.

SECTION 5.04. Payment of Obligations. Each Loan Party will pay or discharge all Material Indebtedness and all other material liabilities and obligations, including Taxes, before the same shall become delinquent or in default, except where (a) the validity or amount thereof is being contested in good faith by appropriate proceedings, (b) such Loan Party has set aside on its books adequate reserves with respect thereto in accordance with GAAP and (c) the failure to make payment pending such contest could not reasonably be expected to result in a Material Adverse Effect; provided, however, that each Loan Party will, and will cause each Subsidiary to, remit withholding taxes and other payroll taxes to appropriate Governmental Authorities as and when claimed to be due, notwithstanding the foregoing exceptions.

SECTION 5.05. Maintenance of Properties . Except as permitted under this Agreement, each Loan Party will keep and maintain all property material to the conduct of its business in good working order and condition, ordinary wear and tear excepted.

SECTION 5.06. Books and Records; Inspection Rights. Each Loan Party will, and will cause each Subsidiary to, (a) keep proper books of record and account in which full, true and correct entries are made of all dealings and transactions in relation to its business and activities and (b) permit any representatives designated by the Lender (including employees of the Lender or any consultants, accountants, lawyers, agents and appraisers retained by the Lender), upon reasonable prior notice (and so long as no Event of Default exists, no more than one time in any calendar year), to visit and inspect its properties, conduct at the Loan Party's premises field examinations of the Loan Party's assets, liabilities, books and records, including examining and making extracts from its books and records, environmental assessment reports and Phase I or Phase II studies, and to discuss its affairs, finances and condition with its officers and independent accountants, all at such reasonable times and as often as reasonably requested. The Loan Parties acknowledge that the Lender, after exercising its rights of inspection, may prepare certain Reports pertaining to the Loan Parties' assets for internal use by the Lender.

SECTION 5.07. Compliance with Laws and Material Contractual Obligations. Each Loan Party will, and will cause each Subsidiary to, (i) comply with each Requirement of Law applicable to it or its property (including, without limitation, Environmental Laws) and (ii) perform in all material respects its obligations under material agreements to which it is a party, except, in each case, where the failure to do so, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect. Each Loan Party will maintain in effect and enforce policies and procedures designed to ensure compliance by such Loan Party, its Subsidiaries and their respective directors, officers, employees and agents with Anti-Corruption Laws and applicable Sanctions.

SECTION 5.08. Use of Proceeds.

(a) The proceeds of the Loans and the Letters of Credit will be used only to consummate the Air Enterprises Acquisition, the CAD Acquisition and any Permitted Acquisition, to refinance existing indebtedness of the Loan Parties and for general working capital purposes of the Loan Parties; provided, however, that with respect to CapEx Loans, Borrowers shall only use the proceeds of CapEx Loans in connection with the purchase by Borrowers of new machinery and/or new equipment reasonably acceptable to Lender and which machinery and/or equipment is located at a location owned by a Borrower or for which a Collateral Access Agreement has been delivered to Lender. No part of the proceeds of any Loan and no Letter of Credit will be used, whether directly or indirectly, (i) for any purpose that entails a violation of any of the Regulations of the Board, including Regulations T, U and X or (ii) to make any Acquisition other than Air Enterprises Acquisition and the CAD Acquisition.

(b) The Borrowers will not request any Borrowing or Letter of Credit, and no Borrower shall use, and each Borrower shall procure that its Subsidiaries and its or their respective directors, officers, employees and agents shall not use, the proceeds of any Borrowing or Letter of Credit (a) 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 Anti-Corruption Laws, (b) for the purpose of funding, financing or facilitating any activities, business or transaction of or with any Sanctioned Person, or in any Sanctioned Country, to the extent such activities, businesses or transaction would be prohibited by Sanctions if conducted by a corporation incorporated in the United States or the European Union, or (c) in any manner that would result in the violation of any Sanctions applicable to any party hereto.

SECTION 5.09. Accuracy of Information. The Loan Parties will ensure that any information, including financial statements or other documents, furnished to the Lender in connection with this Agreement or any other Loan Document or any amendment or modification hereof or thereof or waiver hereunder or thereunder contains no material misstatement of fact or omits to state any material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading, and the furnishing of such information shall be deemed to be a representation and warranty by the Loan Parties on the date thereof as to the matters specified in this Section 5.09; provided that, with respect to the Projections, the Borrowers will cause the Projections to be prepared in good faith based upon assumptions believed to be reasonable at the time (it being understood that projections are subject to inherent uncertainties and contingencies which may be outside the control of any Loan Party and that no assurance can be given that such projected financial information will be realized).

SECTION 5.10. Insurance. Each Loan Party will, and will cause each Subsidiary to, maintain with financially sound and reputable carriers having a financial strength rating of at least A- by A.M. Best Company (a) insurance in such amounts (with no greater risk retention) and against such risks (including loss or damage by fire and loss in transit; theft, burglary, pilferage, larceny, embezzlement, and other criminal activities; business interruption; and general liability) and such other hazards, as is customarily maintained by companies of established repute engaged in the same or similar businesses operating in the same or similar locations and (b) all insurance required pursuant to the Collateral Documents. The Borrowers will furnish to the Lender information in reasonable detail as to the insurance so maintained.

SECTION 5.11. Appraisals. At any time that the Lender requests during the existence and continuation of an Event of Default, each Loan Party will provide the Lender with appraisals or updates thereof of their respective assets from an appraiser selected and engaged by the Lender, and prepared on a basis satisfactory to the Lender, such appraisals and updates to include, without limitation, information required by any applicable Requirement of Law.

SECTION 5.12. Casualty and Condemnation. The Borrowers (a) will furnish to the Lender prompt written notice of any casualty or other insured damage to any material portion of the Collateral or the commencement of any action or proceeding for the taking of any material portion of the Collateral or interest therein under power of eminent domain or by condemnation or similar proceeding and (b) will ensure that the Net Proceeds of any such event (whether in the form of insurance proceeds, condemnation awards or otherwise) are collected and applied in accordance with the applicable provisions of this Agreement and the Collateral Documents.

SECTION 5.13. Depository Banks. Subject to Section 4.14 of the Security Agreement, each Loan Party will maintain the Lender as its principal depository bank, including for the maintenance of operating, administrative, cash management, collection activity, and other deposit accounts for the conduct of its business.

SECTION 5.14. Additional Collateral; Further Assurances.

(a) Subject to applicable Requirements of Law, each Loan Party will cause each of its domestic Subsidiaries formed or acquired after the date of this Agreement or any limited liability companies formed pursuant to any division to become a Loan Party by executing a Joinder Agreement. In connection therewith, the Lender shall have received all documentation and other information regarding such newly formed or acquired Subsidiaries as may be required to comply with the applicable “know your customer” rules and regulations, including the USA Patriot Act. Upon execution and delivery thereof, each such Person (i) shall automatically become a Loan Guarantor or Borrower hereunder and thereupon shall have all of the rights, benefits, duties, and obligations in such capacity under the Loan Documents and (ii) will grant Liens to the Lender, for the benefit of the Secured Parties, in any property of such Loan Party which constitutes Collateral, including any parcel of real property located in the U.S. owned by any Loan Party.

(b) Each Loan Party will cause (i) 100% of the issued and outstanding Equity Interests of each of its domestic Subsidiaries and (ii) 65% of the issued and outstanding Equity Interests entitled to vote (within the meaning of Treas. Reg. Section 1.956-2(c)(2)) and 100% of the issued and outstanding Equity Interests not entitled to vote (within the meaning of Treas. Reg. Section 1.956-2(c)(2)) in each foreign Subsidiary directly owned by any Borrower or any domestic Subsidiary to be subject at all times to a first priority, perfected Lien in favor of the Lender, for the benefit of the Secured Parties, pursuant to the terms and conditions of the Loan Documents or other security documents as the Lender shall reasonably request.

(c) Without limiting the foregoing, each Loan Party will, and will cause each Subsidiary to, execute and deliver, or cause to be executed and delivered, to the Lender such documents, agreements and instruments, and will take or cause to be taken such further actions (including the filing and recording of financing statements, fixture filings, mortgages, deeds of trust and other documents and such other actions or deliveries of the type required by Section 4.01, as applicable), which may be required by any Requirement of Law or which the Lender may, from time to time, reasonably request to carry out the terms and conditions of this Agreement and the other Loan Documents and to ensure perfection and priority of the Liens created or intended to be created by the Collateral Documents, all at the expense of the Loan Parties.

(d) If any material assets (including any real property or improvements thereto or any interest therein) are acquired by any Loan Party after the Effective Date (other than assets constituting Collateral under the Security Agreement that become subject to the Lien under the Security Agreement upon acquisition thereof), the Borrower Representative will (i) notify the Lender and, if requested by the Lender, cause such assets to be subjected to a Lien securing the Secured Obligations and (ii) take, and cause each applicable Loan Party to take, such actions as shall be necessary or reasonably requested by the Lender to grant and perfect such Liens, including actions described in paragraph (c) of this Section, all at the expense of the Loan Parties.

SECTION 5.15. Post-Closing Covenant. Within 10 Business Days after the Effective Date, Borrowers shall provide to Lender updated insurance certificates reasonably satisfactory to Lender showing coverage at the location of the Loan Parties in Houston, Texas disclosed on Exhibit A to the Security Agreement.

ARTICLE VI

Negative Covenants

Until the Commitment shall have expired or been terminated and the principal of and interest on each Loan and all fees, expenses and other amounts payable under any Loan Document shall have been paid in full (other than contingent or indemnity obligations for which no claim has been made) and all Letters of Credit shall have expired or terminated (or have been cash collateralized pursuant to the terms hereof), in each case without any pending draw, and all LC Disbursements shall have been reimbursed, each Loan Party executing this Agreement covenants and agrees, jointly and severally with all of the other Loan Parties, with the Lender that:

SECTION 6.01. Indebtedness. No Loan Party will, nor will it permit any Subsidiary to, create, incur, assume or suffer to exist any Indebtedness, except:

- (a) the Secured Obligations;
- (b) Indebtedness existing on the date hereof and set forth in Schedule 6.01 (excluding, however, following the making of the initial Loan hereunder, the Indebtedness to be repaid with the proceeds of such Loans as indicated on Schedule 6.01) and any extensions, renewals, refinancings and replacements of any such Indebtedness in accordance with clause (f) hereof;
- (c) Indebtedness of any Borrower to any Subsidiary and of any Subsidiary to any Borrower or any other Subsidiary, provided that (i) Indebtedness of any Subsidiary that is not a Loan Party to any Borrower or any other Loan Party shall be subject to Section 6.04 and (ii) Indebtedness of any Loan Party to any Subsidiary that is not a Loan Party shall be subordinated to the Obligations on terms reasonably satisfactory to the Lender;
- (d) Guarantees by any Borrower of Indebtedness of any Subsidiary and by any Subsidiary of Indebtedness of any Borrower or any other Subsidiary, provided that (i) the Indebtedness so Guaranteed is permitted by this Section 6.01, (ii) Guarantees by any Borrower or any other Loan Party of Indebtedness of any Subsidiary that is not a Loan Party shall be subject to Section 6.04 and (iii) Guarantees permitted under this clause (d) shall be subordinated to the Obligations on the same terms as the Indebtedness so Guaranteed is subordinated to the Obligations;
- (e) Indebtedness of any Borrower or any Subsidiary incurred to finance the acquisition, construction or improvement of any fixed or capital assets (whether or not constituting purchase money Indebtedness), including Capital Lease Obligations and any Indebtedness assumed in connection with the acquisition of any such assets or secured by a Lien on any such assets prior to the acquisition thereof, and extensions, renewals and replacements of any such Indebtedness in accordance with clause (f) below; provided that (i) such Indebtedness is incurred prior to or within 90 days after such acquisition or the completion of such construction or improvement and (ii) the aggregate principal amount of Indebtedness permitted by this clause (e) together with any Refinance Indebtedness in respect thereof permitted by clause (f) below, shall not exceed \$625,000 at any time outstanding;

(f) Indebtedness which represents extensions, renewals, refinancing or replacements (such Indebtedness being so extended, renewed, refinanced or replaced being referred to herein as the “Refinance Indebtedness”) of any of the Indebtedness described in clauses (b), and (e) hereof (such Indebtedness being referred to herein as the “Original Indebtedness”); provided that (i) such Refinance Indebtedness does not increase the principal amount or interest rate of the Original Indebtedness, (ii) any Liens securing such Refinance Indebtedness are not extended to any additional property of any Loan Party or any Subsidiary, (iii) no Loan Party or any Subsidiary that is not originally obligated with respect to repayment of such Original Indebtedness is required to become obligated with respect to such Refinance Indebtedness, (iv) such Refinance Indebtedness does not result in a shortening of the average weighted maturity of such Original Indebtedness, (v) the terms of such Refinance Indebtedness are not less favorable to the obligor thereunder than the original terms of such Original Indebtedness and (vi) if such Original Indebtedness was subordinated in right of payment to the Obligations, then the terms and conditions of such Refinance Indebtedness must include subordination terms and conditions that are at least as favorable to the Lender as those that were applicable to such Original Indebtedness;

(g) Indebtedness owed to any Person providing workers’ compensation, health, disability or other employee benefits or property, casualty or liability insurance, pursuant to reimbursement or indemnification obligations to such Person, in each case incurred in the ordinary course of business;

(h) Indebtedness of any Loan Party in respect of performance bonds, bid bonds, appeal bonds, surety bonds and similar obligations, in each case provided in the ordinary course of business;

(i) the FFC Subordinated Debt as long as such Indebtedness remains at all times subject to the FFC Subordination Agreement and the CAD Subordinated Debt as long as such Indebtedness remains at all times subject to the CAD Subordination Agreement;

(j) Indebtedness consisting of obligations under any liquidated earn-out to the extent outstanding for less than 30 days from the date any such earn-out becomes liquidated;

(k) Indebtedness in respect of Swap Agreements permitted under Section 6.07;

(l) Indebtedness of any Person that becomes a Loan Party after the date hereof in connection with a Permitted Acquisition or that is assumed by a Borrower in connection with a Permitted Acquisition; provided that (1) such Indebtedness exists at the time such Permitted Acquisition is consummated and is not created in contemplation of or in connection therewith, and (ii) the aggregate principal amount of Indebtedness permitted by clause (1) above, together with any Refinance Indebtedness in respect thereof permitted by Section 6.01(f) (it being understood that Indebtedness under clause (1) above shall constitute “Original Indebtedness” for purposes of Section 6.01(f)), shall not exceed \$375,000 at any time outstanding;

(l) other unsecured Indebtedness in an aggregate principal amount not exceeding \$312,500 at any time outstanding;

(m) the endorsement of negotiable instruments payable to the Loan Parties for deposit or collection in the ordinary course of business; and

(n) contingent obligations arising with respect to real property leases for property leased by a Loan Party.

SECTION 6.02. Liens. No Loan Party will, nor will it permit any Subsidiary to, create, incur, assume or permit to exist any Lien on any property or asset now owned or hereafter acquired by it, or assign or sell any income or revenues (including Accounts) or rights in respect of any thereof, except:

(a) Liens created pursuant to any Loan Document;

(b) Permitted Encumbrances;

(c) any Lien on any property or asset of any Borrower or any Subsidiary existing on the date hereof and set forth in Schedule 6.02; provided that (i) such Lien shall not apply to any other property or asset of such Borrower or Subsidiary or any other Borrower or Subsidiary and (ii) such Lien shall secure only those obligations which it secures on the date hereof and extensions, renewals and replacements thereof that do not increase the outstanding principal amount thereof;

(d) Liens on fixed or capital assets acquired, constructed or improved by any Borrower or any Subsidiary; provided that (i) such Liens secure Indebtedness permitted by clause (e) of Section 6.01, (ii) such Liens and the Indebtedness secured thereby are incurred prior to or within 90 days after such acquisition or the completion of such construction or improvement, (iii) the Indebtedness secured thereby does not exceed 100% of the cost of acquiring, constructing or improving such fixed or capital assets and (iv) such Liens shall not apply to any other property or assets of any Borrower or any Subsidiary;

(e) any Lien existing on any property or asset (other than Accounts and Inventory) prior to the acquisition thereof by any Borrower or any Subsidiary or existing on any property or asset (other than Accounts and Inventory) of any Person that becomes a Loan Party after the date hereof prior to the time such Person becomes a Loan Party; provided that (i) such Lien is not created in contemplation of or in connection with such acquisition or such Person becoming a Loan Party, as the case may be, (ii) such Lien shall not apply to any other property or assets of the Loan Party and (iii) such Lien shall secure only those obligations which it secures on the date of such acquisition or the date such Person becomes a Loan Party, as the case may be, and extensions, renewals and replacements thereof that do not increase the outstanding principal amount thereof;

(f) Liens of a collecting bank arising in the ordinary course of business under Section 4-208 of the UCC in effect in the relevant jurisdiction covering only the items being collected upon;

(g) Liens arising out of Sale and Leaseback Transactions permitted by Section 6.06;

(h) Liens granted by a Subsidiary that is not a Loan Party in favor of a Borrower or another Loan Party in respect of Indebtedness owed by such Subsidiary;

(i) Liens (other than any Lien created by Section 4068 of ERISA and securing an obligation of any employer or employers which is delinquent) under workers compensation, unemployment, insurance and other types of social security so long as not incurred in connection with the borrowing of money or the obtaining of advances or credits to finance the purchase price of property;

(j) the interests of lessors or sublessors under operating leases and non-exclusive licensors under license agreements, in each case in the ordinary course of business and not interfering with the business of the Loan Parties in any material respect;

(k) Liens arising from precautionary UCC financing statement filings regarding operating leases entered into by any Loan Party in the ordinary course of business;

(l) other statutory Liens incidental to the conduct of its business or the ownership of its property and assets which (i) were not incurred in connection with the borrowing of money or the obtaining of advances or credit, and (ii) which do not in the aggregate materially detract from the value of its property or assets or materially impair the use thereof in the operation of its business; and

(m) Liens in favor of FFC to secure the FFC Subordinated Debt as long as such Liens remain at all times subject to the FFC Subordination Agreement, and Liens in favor of the CAD Seller Payee to secure the CAD Subordinated Debt as long as such Liens remain at all times subject to the CAD Subordination Agreement.

SECTION 6.03. Fundamental Changes.

(a) No Loan Party will, nor will it permit any Subsidiary to, merge into or consolidate with any other Person, or permit any other Person to merge into or consolidate with it, otherwise Dispose of all or substantially all of its assets, or all or substantially all of the stock of any of its Subsidiaries (in each case, whether now owned or hereafter acquired), or liquidate, divide or dissolve, provided, however, that, (1) any Loan Party may consummate a Permitted Acquisition, (2) any Loan Party may make a Disposition to the extent permitted under Section 6.05, and (3) if at the time thereof and immediately after giving effect thereto no Event of Default shall have occurred and be continuing, (i) any Subsidiary of any Borrower may merge into a Borrower in a transaction in which a Borrower is the surviving entity, (ii) any Borrower may merge into another Borrower, (iii) any Loan Party (other than any Borrower) may merge into any other Loan Party in a transaction in which the surviving entity is a Loan Party and (iv) any Subsidiary that is not a Loan Party may liquidate, divide or dissolve if the Borrowers determine in good faith that such liquidation, division or dissolution is in the best interests of the Borrowers and is not materially disadvantageous to the Lender; provided, further that any such merger involving a Person that is not a wholly owned Subsidiary immediately prior to such merger shall not be permitted unless also permitted by Section 6.04.

(b) No Loan Party will, nor will it permit any Subsidiary to, engage to any material extent in any business other than businesses of the type conducted by the Borrowers and their Subsidiaries on the date hereof and businesses reasonably related thereto.

(c) No Loan Party will, nor will it permit any Subsidiary to change its fiscal year or any fiscal quarter from the basis in effect on the Effective Date.

(d) No Loan Party will change the accounting basis upon which its financial statements are prepared.

(e) No Loan Party will, nor will it permit any Subsidiary to, consummate a Division as the Dividing Person, without the prior written consent of the Lender. Without limiting the foregoing, if any Loan Party that is a limited liability company consummates a Division (with or without the prior consent of Lender as required above), each Division Successor shall be required to comply with the obligations set forth in Section 5.14 and the other further assurances obligations set forth in the Loan Documents and become a Loan Party under this Agreement and the other Loan Documents.

SECTION 6.04. Investments, Loans, Advances, Guarantees and Acquisitions. No Loan Party will, nor will it permit any Subsidiary to, form any subsidiary after the Effective Date, or purchase, hold or acquire (including pursuant to any merger with any Person that was not a Loan Party and a wholly owned Subsidiary prior to such merger) any Equity Interests, evidences of indebtedness or other securities (including any option, warrant or other right to acquire any of the foregoing) of, make or permit to exist any loans or advances to, Guarantee any obligations of, or make or permit to exist any investment or any other interest in, any other Person, or purchase or otherwise acquire (in one transaction or a series of transactions) any assets of any other Person constituting a business unit (whether through purchase of assets, merger or otherwise), except:

(a) Permitted Investments, subject to control agreements in favor of the Lender or otherwise subject to a perfected security interest in favor of the Lender.

(b) investments in existence on the date hereof and described in Schedule 6.04.

(c) investments by the Loan Parties and the Subsidiaries in Equity Interests in their respective Subsidiaries, provided that (i) any such Equity Interests held by a Loan Party shall be pledged pursuant to the Security Agreement (subject to the limitations applicable to Equity Interests of a foreign Subsidiary referred to in Section 5.14) and (ii) the aggregate amount of investments by Loan Parties in Subsidiaries that are not Loan Parties (together with outstanding intercompany loans permitted under Section 6.04(d) and outstanding Guarantees permitted under Section 6.04(e)) shall not exceed \$250,000 at any time outstanding (in each case determined without regard to any write-downs or write-offs).

(d) loans or advances made by any Loan Party to any Subsidiary and made by any Subsidiary to a Loan Party or any other Subsidiary, provided that (i) any such loans and advances made by a Loan Party shall be evidenced by a promissory note pledged pursuant to the Security Agreement and (ii) the amount of such loans and advances made by Loan Parties to Subsidiaries that are not Loan Parties (together with outstanding investments permitted under Section 6.04(c) and outstanding Guarantees permitted under Section 6.04(e)) shall not exceed \$250,000 at any time outstanding (in each case determined without regard to any write-downs or write-offs).

(e) Guarantees constituting Indebtedness permitted by Section 6.01, provided that the aggregate principal amount of Indebtedness of Subsidiaries that are not Loan Parties that is Guaranteed by any Loan Party (together with outstanding investments permitted under clause (ii) to the proviso to Section 6.04(c) and outstanding intercompany loans permitted under clause (ii) to the proviso to Section 6.04(d)) shall not exceed \$250,000 at any time outstanding (in each case determined without regard to any write-downs or write-offs).

(f) Permitted Acquisitions.

(g) notes payable, or stock or other securities issued by Account Debtors to a Loan Party pursuant to negotiated agreements with respect to settlement of such Account Debtor's Accounts in the ordinary course of business, consistent with past practices.

(h) investments in the form of Swap Agreements permitted by Section 6.07.

(i) investments of any Person existing at the time such Person becomes a Subsidiary of a Borrower or consolidates or merges with a Borrower or any party's Subsidiary (including in connection with a Permitted Acquisition), so long as such investments were not made in contemplation of such Person becoming a Subsidiary or of such merger.

(j) investments received in connection with the disposition of assets permitted by Section 6.05.

(k) investments constituting deposits described in clauses (c) and (d) of the definition of the term "Permitted Encumbrances".

(l) the Air Enterprises Acquisition and the CAD Acquisition.

(m) Permitted Joint Venture Investments.

SECTION 6.05. Asset Sales. No Loan Party will, nor will it permit any Subsidiary to, sell, transfer, lease or otherwise dispose of any asset, including any Equity Interest owned by it, nor will any Borrower permit any Subsidiary to issue any additional Equity Interest in such Subsidiary (other than to another Borrower or another Subsidiary in compliance with Section 6.04), except:

(a) sales, transfers and dispositions of (i) Inventory in the ordinary course of business and (ii) used, obsolete, worn out or surplus Equipment or property in the ordinary course of business;

(b) transfers and dispositions of assets by any Loan Party to any other Loan Party or any Subsidiary, provided that any such sales, transfers or dispositions involving a Subsidiary that is not a Loan Party shall be made in compliance with Section 6.09;

(c) sales, transfers and dispositions of Accounts (excluding sales or dispositions in a factoring arrangement) in connection with the compromise, settlement or collection thereof;

(d) sales, transfers and dispositions of Permitted Investments;

(e) Sale and Leaseback Transactions permitted by Section 6.06;

(f) dispositions resulting from any casualty or other insured damage to, or any taking under power of eminent domain or by condemnation or similar proceeding of, any property or asset of any Borrower or any Subsidiary; and

(g) sales, transfers and other dispositions of assets (other than Equity Interests in a Subsidiary unless all Equity Interests in such Subsidiary are sold) that are not permitted by any other clause of this Section, provided that the aggregate fair market value of all assets sold, transferred or otherwise disposed of in reliance upon this paragraph (g) shall not exceed \$1,250,000 during any fiscal year of the Company;

provided that all sales, transfers, leases and other dispositions permitted under this Section 6.05 (other than those permitted by paragraphs (b), (d) and (f) above) shall be made for fair value and for at least 75% cash consideration.

SECTION 6.06. Sale and Leaseback Transactions. No Loan Party will, nor will it permit any Subsidiary to, enter into any arrangement, directly or indirectly, whereby it shall sell or transfer any property, real or personal, used or useful in its business, whether now owned or hereafter acquired, and thereafter rent or lease such property or other property that it intends to use for substantially the same purpose or purposes as the property sold or transferred (a “Sale and Leaseback Transaction”), except for any such sale of any fixed or capital assets by any Borrower or any Subsidiary that is made for cash consideration in an amount not less than the fair value of such fixed or capital asset and is consummated within 90 days after such Borrower or such Subsidiary acquires or completes the construction of such fixed or capital asset.

SECTION 6.07. Swap Agreements. No Loan Party will, nor will it permit any Subsidiary to, enter into any Swap Agreement, except (a) Swap Agreements entered into to hedge or mitigate risks to which any Borrower or any Subsidiary has actual exposure (other than those in respect of Equity Interests of any Borrower or any Subsidiary), and (b) Swap Agreements entered into in order to effectively cap, collar or exchange interest rates (from floating to fixed rates, from one floating rate to another floating rate or otherwise) with respect to any interest-bearing liability or investment of any Borrower or any Subsidiary.

SECTION 6.08. Restricted Payments; Certain Payments of Indebtedness.

(a) No Loan Party will, nor will it permit any Subsidiary to, declare or make, or agree to declare or make, directly or indirectly, any Restricted Payment, or incur any obligation (contingent or otherwise) to do so, except (i) each of the Borrowers may declare and pay dividends with respect to its common stock payable solely in additional shares of its common stock, and, with respect to its preferred stock, payable solely in additional shares of such preferred stock or in shares of its common stock, (ii) Subsidiaries may declare and pay dividends ratably with respect to their Equity Interests, and (iii) the Borrowers may make Restricted Payments, not exceeding \$1,250,000 during any fiscal year of the Company, so long as no Event of Default exists both before and after giving effect to any such Restricted Payment.

(b) No Loan Party will, nor will it permit any Subsidiary to, make or agree to pay or make, directly or indirectly, any payment or other distribution (whether in cash, securities or other property) of or in respect of principal of or interest on any Indebtedness, or any payment or other distribution (whether in cash, securities or other property), including any sinking fund or similar deposit, on account of the purchase, redemption, retirement, acquisition, cancellation or termination of any Indebtedness, except:

(i) payment of Indebtedness created under the Loan Documents;

(ii) payment of regularly scheduled interest and principal payments as and when due in respect of any Indebtedness permitted under Section 6.01, other than payments in respect of the Subordinated Indebtedness (other than the FFC Subordinated Debt and the CAD Subordinated Debt) prohibited by the subordination provisions thereof;

(iii) with respect to the FFC Subordinated Debt, commencing January 1, 2018, payments of regularly scheduled quarterly payments of principal and interest so long as the FFC Subordinated Payment Conditions are satisfied;

(iv) [reserved];

(v) with respect to the CAD Subordinated Debt, payments of regularly scheduled payments of principal and interest so long as the CAD Subordinated Payment Conditions are satisfied;

(vi) refinancings of Indebtedness to the extent permitted by Section 6.01; and

(vii) payment of secured Indebtedness that becomes due as a result of the voluntary sale or transfer of the property or assets securing such Indebtedness to the extent such sale or transfer is permitted by the terms of Section 6.05.

SECTION 6.09. Transactions with Affiliates. No Loan Party will, nor will it permit any Subsidiary to, sell, lease or otherwise transfer any property or assets to, or purchase, lease or otherwise acquire any property or assets from, or otherwise engage in any other transactions with, any of its Affiliates, except (a) transactions that (i) are in the ordinary course of business and (ii) are at prices and on terms and conditions not less favorable to such Loan Party or such Subsidiary than could be obtained on an arm's-length basis from unrelated third parties, (b) transactions between or among the Loan Parties not involving any other Affiliate, (c) any investment permitted by Sections 6.04(c) or 6.04(d), (d) any Indebtedness permitted under Section 6.01(c), (e) any Restricted Payment permitted by Section 6.08, (f) the payment of reasonable fees to directors of any Borrower or any Subsidiary who are not employees of such Borrower or any Subsidiary, and compensation and employee benefit arrangements paid to, and indemnities provided for the benefit of, directors, officers or employees of the Borrowers or their Subsidiaries in the ordinary course of business, and (g) any issuances of securities or other payments, awards or grants in cash, securities or otherwise pursuant to, or the funding of, employment agreements, stock options and stock ownership plans approved by a Borrower's board of directors.

SECTION 6.10. Restrictive Agreements. No Loan Party will, nor will it permit any Subsidiary to, directly or indirectly enter into, incur or permit to exist any agreement or other arrangement that prohibits, restricts or imposes any condition upon (a) the ability of such Loan Party or any Subsidiary to create, incur or permit to exist any Lien upon any of its property or assets, or (b) the ability of any Subsidiary to pay dividends or other distributions with respect to any Equity Interests or to make or repay loans or advances to any Borrower or any other Subsidiary or to Guarantee Indebtedness of any Borrower or any other Subsidiary; provided that (i) the foregoing shall not apply to restrictions and conditions imposed by any Requirement of Law or by any Loan Document, (ii) the foregoing shall not apply to restrictions and conditions existing on the date hereof identified on Schedule 6.10 (but shall apply to any extension or renewal of, or any amendment or modification expanding the scope of, any such restriction or condition), (iii) the foregoing shall not apply to customary restrictions and conditions contained in agreements relating to the sale of a Subsidiary pending such sale, provided such restrictions and conditions apply only to the Subsidiary that is to be sold and such sale is permitted hereunder, (iv) clause (a) of the foregoing shall not apply to restrictions or conditions imposed by any agreement relating to secured Indebtedness permitted by this Agreement if such restrictions or conditions apply only to the property or assets securing such Indebtedness and (v) clause (a) of the foregoing shall not apply to customary provisions in leases and other contracts restricting the assignment thereof.

SECTION 6.11. Amendment of Material Documents. No Loan Party will, nor will it permit any Subsidiary to, amend, modify or waive any of its rights under (a) any agreement relating to any Subordinated Indebtedness, including the FFC Subordinated Debt and the CAD Subordinated Debt, or (b) its charter, articles or certificate of organization or incorporation and bylaws or operating, management or partnership agreement, or other organizational or governing documents, (c) the Air Enterprises Acquisition Documents, to the extent any such amendment, modification or waiver would be adverse to the Lender, or (d) the CAD Acquisition Documents, to the extent any such amendment, modification or waiver would be adverse to the Lender.

SECTION 6.12. Financial Covenants.

(a) Fixed Charge Coverage Ratio. The Company will not permit the Fixed Charge Coverage Ratio, for any period of four consecutive fiscal quarters ending on the last day of any fiscal quarter, to be less than 1.20 to 1.00.

(b) Senior Funded Indebtedness to EBITDA Ratio. The Company will not permit the Senior Funded Indebtedness to EBITDA Ratio, on the last day of any fiscal quarter to be greater than 2.50 to 1.00 as of the fiscal quarter ending June 30, 2018 and on each fiscal quarter ending thereafter.

(C) Total Funded Indebtedness to EBITDA Ratio. The Company will not permit the Total Funded Indebtedness to EBITDA Ratio, on the last day of any fiscal quarter to be greater than 3.75 to 1.00 as of the fiscal quarter ending June 30, 2018 and on each fiscal quarter ending thereafter.

SECTION 6.13. Excluded Subsidiary Restrictions. Notwithstanding anything to the contrary contained in Article VI or elsewhere in this Agreement, without the Lender's prior written consent, after the Second Amendment Effective Date, other than as expressly allowed in the definition of "Permitted Joint Venture Investment" (but subject to the limitation set forth in such definition) no Loan Party shall (a) make any loan or advance to, Guarantee any obligations of, or make any investments in or any additional capital contribution to, any Excluded Subsidiary, or (b) convey, sell, lease, transfer to, or dispose of, any of its assets to an Excluded Subsidiary.

ARTICLE VII

Events of Default

If any of the following events ("Events of Default") shall occur:

(a) the Borrowers shall fail to pay any principal of any Loan or any reimbursement obligation in respect of any LC Disbursement when and as the same shall become due and payable, whether at the due date thereof or at a date fixed for prepayment thereof or otherwise;

(b) the Borrowers shall fail to pay any interest on any Loan or any fee or any other amount (other than an amount referred to in clause (a) of this Article) payable under this Agreement or any other Loan Document, when and as the same shall become due and payable, and such failure shall continue unremedied for a period of five (5) days;

(c) any representation or warranty made or deemed made by or on behalf of any Loan Party or any Subsidiary in, or in connection with, this Agreement or any other Loan Document or any amendment or modification hereof or thereof or waiver hereunder or thereunder, or in any report, certificate, financial statement or other document furnished pursuant to or in connection with this Agreement or any other Loan Document or any amendment or modification hereof or thereof or waiver hereunder or thereunder, shall prove to have been materially incorrect when made or deemed made;

(d) any Loan Party shall fail to observe or perform any covenant, condition or agreement contained in Section 5.02(a), 5.03 (with respect to a Loan Party's existence) or 5.08 or in Article VI;

(e) any Loan Party shall fail to observe or perform any covenant, condition or agreement contained in this Agreement (other than those specified in clause (a), (b) or (d)), and such failure shall continue unremedied for a period of (i) 5 days after the earlier of any Loan Party's knowledge of such breach or notice thereof from the Lender if such breach relates to terms or provisions of Section 5.01, 5.02 (other than Section 5.02(a)), 5.03 through 5.07, 5.10, 5.11 or 5.13 of this Agreement or (ii) 15 days after the earlier of any Loan Party's knowledge of such breach or notice thereof from the Lender if such breach relates to terms or provisions of any other Section of this Agreement;

(f) any Loan Party or any Subsidiary shall fail to make any payment (whether of principal or interest and regardless of amount) in respect of any Material Indebtedness, when and as the same shall become due and payable;

(g) (i) any default or event of default, or alleged default or event of default, occurs under the FFC Subordinated Debt Documents or the CAD Subordinated Debt Documents which, in each case, shall not have been cured or waived within any applicable grace period, or (ii) any event or condition occurs that results in any Material Indebtedness becoming due prior to its scheduled maturity or that enables or permits (with or without the giving of notice, the lapse of time or both) the holder or holders of any Material Indebtedness or any trustee or agent on its or their behalf to cause any Material Indebtedness to become due, or to require the prepayment, repurchase, redemption or defeasance thereof, prior to its scheduled maturity; provided that this clause (g) shall not apply to secured Indebtedness that becomes due as a result of the voluntary sale or transfer of the property or assets securing such Indebtedness to the extent such sale or transfer is permitted by the terms of Section 6.05;

(h) an involuntary proceeding shall be commenced or an involuntary petition shall be filed seeking (i) liquidation, reorganization or other relief in respect of a Loan Party or any Subsidiary or its debts, or of a substantial part of its assets, under any federal, state or foreign bankruptcy, insolvency, receivership or similar law now or hereafter in effect or (ii) the appointment of a receiver, trustee, custodian, sequestrator, conservator or similar official for any Loan Party or any Subsidiary or for a substantial part of its assets, and, in any such case, such proceeding or petition shall continue undismissed for sixty (60) days or an order or decree approving or ordering any of the foregoing shall be entered;

(i) any Loan Party or any Subsidiary shall (i) voluntarily commence any proceeding or file any petition seeking liquidation, reorganization or other relief under any federal, state or foreign bankruptcy, insolvency, receivership or similar law now or hereafter in effect, (ii) consent to the institution of, or fail to contest in a timely and appropriate manner, any proceeding or petition described in clause (h) of this Article, (iii) apply for or consent to the appointment of a receiver, trustee, custodian, sequestrator, conservator or similar official for such Loan Party or Subsidiary of any Loan Party or for a substantial part of its assets, (iv) file an answer admitting the material allegations of a petition filed against it in any such proceeding, (v) make a general assignment for the benefit of creditors or (vi) take any action for the purpose of effecting any of the foregoing;

(j) any Loan Party or any Subsidiary shall become unable, admit in writing its inability, or publicly declare its intention not to, or fail generally, to pay its debts as they become due;

(k) one or more judgments for the payment of money in an aggregate amount in excess of \$1,250,000 and not fully covered by insurance shall be rendered against any Loan Party, any Subsidiary or any combination thereof and the same shall remain undischarged for a period of thirty (30) consecutive days during which execution shall not be effectively stayed, or any action shall be legally taken by a judgment creditor to attach or levy upon any assets of any Loan Party or any Subsidiary to enforce any such judgment or any Loan Party or any Subsidiary shall fail within thirty (30) days to discharge one or more non-monetary judgments or orders which, individually or in the aggregate, could reasonably be expected to have a Material Adverse Effect, which judgments or orders, in any such case, are not stayed on appeal and being appropriately contested in good faith by proper proceedings diligently pursued;

(l) an ERISA Event shall have occurred that, in the opinion of the Lender, when taken together with all other ERISA Events that have occurred, could reasonably be expected to result in liability of the Borrowers and their Subsidiaries in an aggregate amount exceeding (i) \$250,000 in any year or (ii) \$1,250,000 for all periods;

(m) a Change in Control shall occur;

(n) the occurrence of any “default”, as defined in any Loan Document (other than this Agreement), or the breach of any of the terms or provisions of any Loan Document (other than this Agreement), which default or breach continues beyond any period of grace therein provided;

(o) the Loan Guaranty or any Obligation Guaranty shall fail to remain in full force or effect or any action shall be taken to discontinue or to assert the invalidity or unenforceability of the Loan Guaranty or any Obligation Guaranty, or any individual Guarantor dies or a guardian or conservator is appointed for any individual Guarantor or all or any portion of their property, or any Guarantor shall fail to comply with any of the terms or provisions of the Loan Guaranty or any Obligation Guaranty to which it is a party, or any Guarantor shall deny that it has any further liability under the Loan Guaranty or any Obligation Guaranty to which it is a party, or shall give notice to such effect, including, but not limited to notice of termination delivered pursuant to Section 9.08 or any notice of termination delivered pursuant to the terms of any Obligation Guaranty;

(p) except as permitted by the terms of any Collateral Document, (i) any Collateral Document shall for any reason fail to create a valid security interest in any Collateral purported to be covered thereby, or (ii) any Lien securing any Secured Obligation shall cease to be a perfected, first priority Lien;

(q) any Collateral Document shall fail to remain in full force or effect or any action shall be taken to discontinue or to assert the invalidity or unenforceability of any Collateral Document; or

(r) any material provision of any Loan Document for any reason ceases to be valid, binding and enforceable in accordance with its terms (or any Loan Party shall challenge the enforceability of any Loan Document or shall assert in writing, or engage in any action or inaction that evidences its assertion, that any provision of any of the Loan Documents has ceased to be or otherwise is not valid, binding and enforceable in accordance with its terms); or

(s) any Loan Party is criminally indicted or convicted under any law that may reasonably be expected to lead to a forfeiture of any property of such Loan Party having a fair market value in excess of \$312,500;

then, and in every such event (other than an event with respect to the Borrowers described in clause (h) or (i) of this Article), and at any time thereafter during the continuance of such event, the Lender may, by notice to the Borrower Representative, take either or both of the following actions, at the same or different times: (i) terminate the Commitment, whereupon the Commitment shall terminate immediately, and (ii) declare the Loans then outstanding to be due and payable in whole (or in part, but ratably as among the Classes of Loans and the Loans of each Class at the time outstanding, in which case any principal not so declared to be due and payable may thereafter be declared to be due and payable), whereupon 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 Borrowers accrued hereunder, shall become due and payable immediately, in each case without presentment, demand, protest or other notice of any kind, all of which are hereby waived by the Borrowers; and in the case of any event with respect to the Borrowers described in clause (h) or (i) of this Article, the Commitment shall automatically terminate and the principal of the Loans then outstanding, together with accrued interest thereon and all fees and other obligations of the Borrowers accrued hereunder, shall automatically become due and payable, in each case without presentment, demand, protest or other notice of any kind, all of which are hereby waived by the Borrowers. Upon the occurrence and during the continuance of an Event of Default, the Lender may increase the rate of interest applicable to the Loans and other Obligations as set forth in this Agreement and exercise any rights and remedies provided to the Lender under the Loan Documents or at law or equity, including all remedies provided under the UCC.

ARTICLE VIII

Miscellaneous

SECTION 8.01. 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 fax, as follows:

(i) if to any Loan Party, to it in care of the Borrower Representative at:

10514 Dupont Avenue
Cleveland, Ohio 44108
Attention: Chief Financial Officer
Fax No: 216-761-9879

With copy to (which shall not constitute notice):

Calfee, Halter & Griswold LLP
The Calfee Building
1405 East Sixth Street
Cleveland, Ohio 44114
Attention: Terrence F. Doyle
Fax No: 216-241-0816

(ii) if to JPMorgan Chase Bank, N.A. at:

JPMorgan Chase Bank, N.A.
Middle Market Servicing
10 South Dearborn, Floor L2
Suite IL1-0480
Chicago, IL, 60603-2300
Attention: Wholesale Loan Operations
Fax No: (877) 242-0998

With a copy to:

JPMorgan Chase Bank, N.A.
1300 East Ninth Street, Floor 13
Cleveland, Ohio 44114
Attention: Michael P. Lepro
Fax No: (216) 781-2271

All such notices and other communications (i) sent by hand or overnight courier service, or mailed by certified or registered mail, shall be deemed to have been given when received, (ii) sent by fax shall be deemed to have been given when sent, provided that if not given during normal business hours for the recipient, such notice or communication shall be deemed to have been given at the opening of business on the next Business Day of the recipient, or (iii) delivered through electronic communication to the extent provided in paragraph (b) below shall be effective as provided in such paragraph.

(b) Notices and other communications to the Lender hereunder may be delivered or furnished by electronic communications (including e-mail and internet or intranet websites) pursuant to procedures approved by the Lender; provided that the foregoing shall not apply to notices pursuant to Article II or to compliance and no Default certificates delivered pursuant to Sections 5.01(c) and 5.01(d) unless otherwise agreed by the Lender. Each of the Lender or the Borrower Representative (on behalf of the Loan Parties) may, in its discretion, agree to accept notices and other communications to it hereunder by electronic communications pursuant to procedures approved by it; provided that approval of such procedures may be limited to particular notices or communications. 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 if not given during the normal business hours of the recipient, such notice or communication 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 (i), of notification that such notice or communication is available and identifying the website address therefor; provided that, for both clauses (i) and (ii) above, if such notice, e-mail or other communication is not sent during the normal business hours of the recipient, such notice or communication shall be deemed to have been sent at the opening of business on the next Business Day of the recipient.

(c) Any party hereto may change its address, facsimile number or e-mail address for notices and other communications hereunder by notice to the other parties hereto.

SECTION 8.02. Waivers; Amendments.

(a) No failure or delay by the 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 Lender 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 Loan Party therefrom shall in any event be effective unless the same shall be 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, the making of a Loan or issuance of a Letter of Credit shall not be construed as a waiver of any Default, regardless of whether the Lender may have had notice or knowledge of such Default at the time.

(b) 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 Borrowers and the Lender or (ii) in the case of any other Loan Document, pursuant to an agreement or agreements in writing entered into by the Lender and the Loan Party or Loan Parties that are parties thereto.

SECTION 8.03. Expenses; Indemnity; Damage Waiver.

(a) The Loan Parties, jointly and severally, shall pay all (i) reasonable and documented out-of-pocket expenses incurred by the Lender and its Affiliates, including the reasonable fees, charges and disbursements of counsel for the Lender (whether outside counsel or the allocated costs of its internal legal department), in connection with the credit facilities provided for herein, the preparation and administration of the Loan Documents and any amendments, modifications or waivers of the provisions of the Loan Documents (whether or not the transactions contemplated hereby or thereby shall be consummated), (ii) reasonable and documented out-of-pocket expenses incurred by the Lender in connection with the issuance, amendment, renewal or extension of any Letter of Credit or any demand for payment thereunder and (iii) reasonable and documented out-of-pocket expenses incurred by the Lender, including the fees, charges and disbursements of any counsel for the Lender (whether outside counsel or the allocated costs of its internal legal department), in connection with the enforcement, collection or protection of its rights in connection with the Loan Documents, including its rights under this Section, or in connection with the Loans made or Letters of Credit issued hereunder, including all such out-of-pocket expenses incurred during any workout, restructuring or negotiations in respect of such Loans or Letters of Credit. Expenses being reimbursed by the Loan Parties under this Section include, without limiting the generality of the foregoing, fees, costs and expenses incurred in connection with:

(A) appraisals (subject to the limitations set forth in Section 5.11) and insurance reviews;

(B) field examinations and the preparation of Reports based on the fees charged by a third party retained by the Lender or the internally allocated fees for each Person employed by the Lender with respect to each field examination (subject to the limitations set forth in Section 5.06);

(C) background checks regarding senior management and/or key investors, as deemed necessary or appropriate in the sole discretion of the Lender;

(D) Taxes, fees and other charges for (i) lien and title searches and title insurance and (ii) recording mortgages, filing financing statements and continuations, and other actions to perfect, protect, and continue the Lender's Liens;

(E) sums paid or incurred to take any action required of any Loan Party under the Loan Documents that such Loan Party fails to pay or take; and

(F) forwarding loan proceeds, collecting checks and other items of payment, and establishing and maintaining the accounts and lock boxes, and costs and expenses of preserving and protecting the Collateral.

All of the foregoing fees, costs and expenses may be charged to the Borrowers as Revolving Loans or to another deposit account, all as described in Section 2.16(c).

(b) The Loan Parties, jointly and severally, shall indemnify the Lender, and each Related Party of the Lender (each such Person being called an “Indemnitee”) against, and hold each Indemnitee harmless from, any and all losses, claims, damages, penalties, incremental taxes, liabilities and related expenses, including the reasonable and documented fees, charges and disbursements of any counsel for any Indemnitee, incurred by or asserted against any Indemnitee arising out of, in connection with, or as a result of (i) the execution or delivery of the Loan Documents or any agreement or instrument contemplated thereby, the performance by the parties hereto of their respective obligations thereunder or the consummation of the Transactions or any other transactions contemplated hereby, (ii) any Loan or Letter of Credit or the use of the proceeds therefrom (including any refusal by the Lender to honor a demand for payment under a Letter of Credit if the documents presented in connection with such demand do not strictly comply with the terms of such Letter of Credit), (iii) any actual or alleged presence or Release of Hazardous Materials on or from any property owned or operated by a Loan Party or a Subsidiary, or any Environmental Liability related in any way to a Loan Party or Subsidiary, (iv) the failure of a Loan Party to deliver to the Lender the required receipts or other required documentary evidence with respect to a payment made by such Loan Party for Taxes pursuant to Section 2.15, or (v) any actual or prospective claim, litigation, investigation or proceeding relating to any of the foregoing, whether or not such claim, litigation, investigation or proceeding is brought by any Loan Party or their respective equity holders, Affiliates, creditors or any other third Person and whether based on contract, tort or any other theory and regardless of whether any Indemnitee is a party thereto; provided that such indemnity shall not, as to any Indemnitee, be available to the extent that such losses, claims, damages, penalties, liabilities or related expenses are determined by a court of competent jurisdiction by final and nonappealable judgment to have resulted from the gross negligence or willful misconduct of such Indemnitee. This Section 8.03(b) shall not apply with respect to Taxes other than any Taxes that represent losses or damages arising from any non-Tax claim.

(c) To the extent permitted by applicable law, no Loan Party shall assert, and each Loan Party hereby waives, any claim against any Indemnitee, (i) for any damages arising from the use by others of information or other materials obtained through telecommunications, electronic or other information transmission systems (including the Internet), or (ii) 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, any other Loan Document, or any agreement or instrument contemplated hereby or thereby, the Transactions, any Loan or Letter of Credit or the use of the proceeds thereof; provided that, nothing in this paragraph (c) shall relieve any Loan Party of any obligation it may have to indemnify an Indemnitee against special, indirect, consequential or punitive damages asserted against such Indemnitee by a third party.

(d) All amounts due under this Section shall be payable promptly after written demand therefor.

SECTION 8.04. 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 assigns permitted hereby (including any Affiliate of the Lender that issues any Letter of Credit), except that no Borrower may assign or otherwise transfer any of its rights or obligations hereunder without the prior written consent of the Lender (and any attempted assignment or transfer by a Borrower without such consent shall be null and void). Nothing in this Agreement, expressed or implied, shall be construed to confer upon any Person (other than the parties hereto, their respective successors and assigns permitted hereby (including any Affiliate of the Lender that issues any Letter of Credit), Participants (to the extent provided in paragraph (c) of this Section) and, to the extent expressly contemplated hereby, the Related Parties of the Lender) any legal or equitable right, remedy or claim under or by reason of this Agreement.

(b) The Lender may assign to one or more assignees all or a portion of its rights and obligations under this Agreement (including all or a portion of its Commitment and the Loans at the time owing to it) with the prior written consent (such consent not to be unreasonably withheld) of the Borrower Representative, provided that the Borrower Representative shall be deemed to have consented to any such assignment unless it shall object thereto by written notice to the Lender within five (5) Business Days after having received notice thereof, and provided further that no consent of the Borrower Representative shall be required for an assignment to an Affiliate of the Lender, an Approved Fund or, if an Event of Default has occurred and is continuing, any other assignee;

For the purposes of this Section 8.04(b), the term “Approved Fund” has the following meaning:

“Approved 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 of its business and that is administered or managed by (a) the Lender, (b) an Affiliate of the Lender or (c) an entity or an Affiliate of an entity that administers or manages the Lender.

(c) The Lender may, without the consent of the Borrowers, sell participations to one or more banks or other entities (a “Participant”) in all or a portion of the Lender’s rights and obligations under this Agreement (including all or a portion of its Commitment and Letters of Credit and the Loans owing to it); provided that (i) the Lender’s obligations under this Agreement shall remain unchanged; (ii) the Lender shall remain solely responsible to the other parties hereto for the performance of such obligations; and (iii) the Borrowers shall continue to deal solely and directly with the Lender in connection with the Lender’s rights and obligations under this Agreement. Each Borrower agrees that each Participant shall be entitled to the benefits of Sections 2.13, 2.14 and 2.15 (subject to the requirements and limitations therein) to the same extent as if it were the Lender and had acquired its interest by assignment pursuant to paragraph (b) of this Section; provided that such Participant shall not be entitled to receive any greater payment under Section 2.13 or 2.15, with respect to any participation, than its participating Lender would have been entitled to receive, except to the extent such entitlement to receive a greater payment results from a Change in Law that occurs after the Participant acquired the applicable participation.

To the extent permitted by law, each Participant also shall be entitled to the benefits of Section 8.08 as though it were the Lender. If the Lender shall sell a participation, it shall, acting solely for this purpose as an agent of the Borrowers, maintain a register on which it enters the name and address of each Participant and the principal amounts (and stated interest) of each Participant’s interest in the Loans or other obligations under this Agreement or any other Loan Document (the “Participant Register”); provided that the Lender shall have no 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 Commitment, 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 U.S. Treasury Regulations. The entries in the Participant Register shall be conclusive absent manifest error, and the 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.

(d) The Lender may at any time pledge or assign a security interest in all or any portion of its rights under this Agreement to secure obligations of the Lender, including without limitation any pledge or assignment to secure obligations to a Federal Reserve Bank, and this Section 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 the Lender from any of its obligations hereunder or substitute any such pledgee or assignee for the Lender as a party hereto.

SECTION 8.05. 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 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 the Lender may have had notice or knowledge of any 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 and unpaid or any Letter of Credit is outstanding and so long as the Commitment has not expired or terminated. The provisions of Sections 2.13, 2.14, 2.15 and Section 8.03 shall survive and remain in full force and effect regardless of the consummation of the transactions contemplated hereby, the repayment of the Loans, the expiration or termination of the Letters of Credit and the Commitment or the termination of this Agreement or any other Loan Document or any provision hereof or thereof.

SECTION 8.06. Counterparts; Integration; Effectiveness; Electronic Execution.

(a) 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 and any separate letter agreements with respect to fees payable to the Lender constitute the entire contract 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. Except as provided in Section 4.01, this Agreement shall become effective when it shall have been executed by the Lender and when the Lender shall have 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 assigns.

(b) Delivery of an executed counterpart of a signature page of this Agreement by fax, emailed pdf. or any other electronic means that reproduces an image of the actual executed signature page shall be effective as delivery of a manually executed counterpart of this Agreement. The words "execution," "signed," "signature," "delivery," and words of like import in or relating to any document to be signed in connection with this Agreement and the transactions contemplated hereby or thereby shall be deemed to include Electronic Signatures, deliveries or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature, physical delivery thereof or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any applicable law, including the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act, or any other similar state laws based on the Uniform Electronic Transactions Act.

SECTION 8.07. Severability. 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 8.08. Right of Setoff. If an Event of Default shall have occurred and be continuing, the Lender and each of its Affiliates is hereby authorized at any time and from time to time, to the fullest extent permitted by 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 at any time owing by the Lender or any Affiliate to or for the credit or the account of any Loan Party against any of and all the Secured Obligations, irrespective of whether or not the Lender shall have made any demand under the Loan Documents and although such obligations may be unmatured. The rights of the Lender under this Section are in addition to other rights and remedies (including other rights of setoff) which the Lender may have.

SECTION 8.09. Governing Law; Jurisdiction; Consent to Service of Process.

(a) The Loan Documents (other than those containing a contrary express choice of law provision) shall be governed by and construed in accordance with the internal laws of the State of Ohio, but giving effect to federal laws applicable to national banks.

(b) Each Loan Party hereby irrevocably and unconditionally submits, for itself and its property, to the nonexclusive jurisdiction of any U.S. federal or Ohio State court sitting in Cleveland, Ohio in any action or proceeding arising out of or relating to any Loan Documents, or for recognition or enforcement of any judgment, and each of the parties hereto hereby irrevocably and unconditionally agrees that all claims in respect of any such action or proceeding may be heard and determined in such state court or, to the extent permitted by law, in such federal court. Each of the parties hereto agrees that a final judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law. Nothing in this Agreement or any other Loan Document shall affect any right that the Lender 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.

(c) Each Loan Party 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 of the parties hereto hereby irrevocably waives, to the fullest extent permitted by law, the defense of an inconvenient forum to the maintenance of such action or proceeding in any such court.

(d) Each party to this Agreement irrevocably consents to service of process in the manner provided for notices in Section 8.01. 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 law.

SECTION 8.10. WAIVER OF JURY TRIAL. EACH PARTY HERETO HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT, ANY OTHER LOAN DOCUMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY). EACH PARTY HERETO (A) CERTIFIES THAT NO REPRESENTATIVE OR OTHER AGENT (INCLUDING ANY 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 AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

SECTION 8.11. 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 8.12. Confidentiality. The Lender agrees to maintain the confidentiality of the Information (as defined below), except that Information may be disclosed (a) to its and its Affiliates' directors, officers, employees and agents, including accountants, legal counsel and other advisors (it being understood that the Persons to whom such disclosure is made will be informed of the confidential nature of such Information and instructed to keep such Information confidential), (b) to the extent requested by any Governmental Authority (including any self-regulatory authority, such as the National Association of Insurance Commissioners), (c) to the extent required by any Requirement of Law or by any subpoena or similar legal process, (d) to any other party to this Agreement, (e) in connection with the exercise of any remedies hereunder or under any other Loan Document or any suit, action or proceeding relating to this Agreement or any other Loan Document or the enforcement of rights hereunder or thereunder, (f) subject to an agreement containing provisions substantially the same as those of this Section, to (x) any assignee of or Participant in, or any prospective assignee of or Participant in, any of its rights or obligations under this Agreement or (y) any actual or prospective counterparty (or its advisors) to any swap or derivative transaction relating to the Loan Parties and their obligations, (g) with the consent of the Borrower Representative, or (h) to the extent such Information (x) becomes publicly available other than as a result of a breach of this Section or (y) becomes available to the Lender on a non-confidential basis from a source other than the Borrowers. For the purposes of this Section, "Information" means all information received from the Loan Parties relating to the Loan Parties or their business, other than any such information that is available to the Lender on a non-confidential basis prior to disclosure by the Loan Parties; provided that, in the case of information received from the Borrowers after the date hereof, such information is clearly identified at the time of delivery as confidential. Any Person required to maintain the confidentiality of Information as provided in this Section shall be considered to have complied with its obligation to do so if such Person has exercised the same degree of care to maintain the confidentiality of such Information as such Person would accord to its own confidential information.

SECTION 8.13. Nonreliance; Violation of Law. The Lender hereby represents that it is not relying on or looking to any margin stock (as defined in Regulation U of the Board) for the repayment of the Borrowings provided for herein. Anything contained in this Agreement to the contrary notwithstanding, the Lender shall not be obligated to extend credit to the Borrowers in violation of any Requirement of Law.

SECTION 8.14. USA PATRIOT Act. The Lender is subject to the requirements of the USA PATRIOT Act and hereby notifies each Loan Party that pursuant to the requirements of the USA PATRIOT Act, it is required to obtain, verify and record information that identifies such Loan Party, which information includes the name and address of such Loan Party and other information that will allow the Lender to identify such Loan Party in accordance with the USA PATRIOT Act.

SECTION 8.15. Disclosure. Each Loan Party hereby acknowledges and agrees that the Lender 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 8.16. 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 "Charges"), 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 law, the rate of interest payable in respect of such Loan hereunder, together with all Charges payable in respect thereof, shall be limited to the Maximum Rate and, to the extent lawful, the interest and Charges 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 Charges payable to the 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 the Lender.

SECTION 8.17. Marketing Consent. The Borrowers hereby authorize the Lender, at its sole expense, but without any prior approval by any Borrower, to include the Borrowers' names and logos in advertising slicks posted on the Lender's internet site, in pitchbooks or sent in mailings to prospective customers and to give such other publicity to this Agreement as it may from time to time determine in its sole discretion. Notwithstanding the foregoing, the Lender shall not publish any Borrower's name in a newspaper or magazine without obtaining the Borrowers' prior written approval. The foregoing authorization shall remain in effect unless the Borrower Representative notifies the Lender in writing that such authorization is revoked.

SECTION 8.18. Confession of Judgement. **THE LOAN PARTIES HEREBY AUTHORIZE ANY ATTORNEY-AT-LAW TO APPEAR IN ANY COURT OF RECORD IN ANY COUNTY IN THE STATE OF OHIO OR ELSEWHERE WHERE A LOAN PARTY HAS A PLACE OF BUSINESS, SIGNED THIS AGREEMENT OR CAN BE FOUND, AFTER THE LENDER DECLARES A DEFAULT AND ACCELERATES THE BALANCES DUE UNDER THIS AGREEMENT, TO WAIVE THE ISSUANCE OF SERVICE OF PROCESS AND CONFESS JUDGMENT AGAINST THE LOAN PARTIES IN FAVOR OF THE LENDER FOR THE AMOUNTS THEN APPEARING DUE, TOGETHER WITH THE COSTS OF SUIT, AND THEREUPON TO RELEASE ALL ERRORS AND WAIVE ALL RIGHT OF APPEAL AND STAY OF EXECUTION. THE LOAN PARTIES AGREE AND CONSENT THAT THE ATTORNEY CONFESSING JUDGMENT ON BEHALF OF THE LOAN PARTIES HEREUNDER MAY ALSO BE COUNSEL TO THE LENDER OR ANY OF ITS RESPECTIVE AFFILIATES, WAIVES ANY CONFLICT OF INTEREST WHICH MIGHT OTHERWISE ARISE, AND CONSENTS TO THE LENDER PAYING SUCH CONFESSING ATTORNEY A LEGAL FEE OR ALLOWING SUCH ATTORNEY'S FEES TO BE PAID FROM ANY PROCEEDS OF COLLECTION OF THIS AGREEMENT OR COLLATERAL SECURITY THEREFOR.**

ARTICLE IX

Loan Guaranty

SECTION 9.01. Guaranty. Each Loan Guarantor (other than those that have delivered a separate Guaranty) hereby agrees that it is jointly and severally liable for, and, as a primary obligor and not merely as surety, absolutely and unconditionally and irrevocably guarantees to the Secured Parties, the prompt payment when due, whether at stated maturity, upon acceleration or otherwise, and at all times thereafter, of the Secured Obligations and all reasonable and documented costs and expenses including, without limitation, all court costs and reasonable attorneys' and paralegals' fees (including allocated reasonable and documented costs of in-house counsel and paralegals) and expenses paid or incurred by the Lender in endeavoring to collect all or any part of the Secured Obligations from, or in prosecuting any action against, any Borrower, any Loan Guarantor or any other guarantor of all or any part of the Secured Obligations (such costs and expenses, together with the Secured Obligations, collectively the "Guaranteed Obligations"); provided, however, that the definition of "Guaranteed Obligations" shall not create any guarantee by any Loan Guarantor of (or grant of security interest by any Loan Guarantor to support, as applicable) any Excluded Swap Obligations of such Loan Guarantor for purposes of determining any obligations of any Loan Guarantor). Each Loan Guarantor further agrees that the Guaranteed Obligations may be 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. All terms of this Loan Guaranty apply to and may be enforced by or on behalf of any domestic or foreign branch or Affiliate of the Lender that extended any portion of the Guaranteed Obligations.

SECTION 9.02. Guaranty of Payment. This Loan Guaranty is a guaranty of payment and not of collection. Each Loan Guarantor waives any right to require the Lender to sue any Borrower, any Loan Guarantor, any other guarantor of, or any other Person obligated for all or any part of the Guaranteed Obligations (each, an "Obligated Party"), or otherwise to enforce its payment against any collateral securing all or any part of the Guaranteed Obligations.

SECTION 9.03. No Discharge or Diminishment of Loan Guaranty.

(a) Except as otherwise provided for herein, the obligations of each Loan Guarantor hereunder are unconditional and absolute and not subject to any reduction, limitation, impairment or termination for any reason (other than the indefeasible payment in full in cash of the Guaranteed Obligations), 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 Borrower or any other Obligated Party liable for any of the Guaranteed Obligations; (iii) any insolvency, bankruptcy, reorganization or other similar proceeding affecting any Obligated Party, or their assets, or any resulting release or discharge of any obligation of any Obligated Party; or (iv) the existence of any claim, setoff or other rights which any Loan Guarantor may have at any time against any Obligated Party, the Lender or any other Person, whether in connection herewith or in any unrelated transactions.

(b) 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 provision of applicable law or regulation 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 Lender 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 any Borrower for all or any part of the Guaranteed Obligations or any obligations of any other Obligated Party liable for any of the Guaranteed Obligations; (iv) any action or failure to act by the Lender 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 (other than the indefeasible payment in full in cash of the Guaranteed Obligations).

SECTION 9.04. Defenses Waived. To the fullest extent permitted by applicable law, each Loan Guarantor hereby waives any defense based on or arising out of any defense of any Borrower or any Loan Guarantor or the unenforceability of all or any part of the Guaranteed Obligations from any cause, or the cessation from any cause of the liability of any Borrower, any Loan Guarantor or any other Obligated Party, other than the indefeasible payment in full in cash of the Guaranteed Obligations. Without limiting the generality of the foregoing, each Loan Guarantor irrevocably waives acceptance hereof, presentment, demand, protest and, to the fullest extent permitted by law, any notice not provided for herein, as well as any requirement that at any time any action be taken by any Person against any Obligated Party, or any other Person. Each Loan Guarantor confirms that it is not a surety under any state law and shall not raise any such law as a defense to its obligations hereunder. The Lender may, at its election, foreclose on any Collateral held by it by one or more judicial or nonjudicial sales, 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, 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, without affecting or impairing in any way the liability of such Loan Guarantor under this Loan Guaranty, except to the extent the Guaranteed Obligations have been fully and indefeasibly paid in cash. To the fullest extent permitted by applicable law, each Loan Guarantor waives any defense arising out of any such election even though that election may operate, pursuant to applicable 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 9.05. Rights of Subrogation. No Loan Guarantor will assert any right, claim or cause of action, including, without limitation, a claim of subrogation, contribution or indemnification that it has against any Obligated Party, or any collateral, until the Loan Parties and the Loan Guarantors have fully performed all their obligations to the Lender.

SECTION 9.06. Reinstatement; Stay of Acceleration. If at any time any payment of any portion of the Guaranteed Obligations (including a payment effected through exercise of a right of setoff) is rescinded or must otherwise be restored or returned upon the insolvency, bankruptcy, or reorganization of any Borrower or otherwise (including pursuant to any settlement entered into by a Secured Party in its discretion), each Loan Guarantor's obligations under this Loan Guaranty with respect to that payment shall be reinstated at such time as though the payment had not been made and whether or not the Lender is in possession of this Loan Guaranty. If acceleration of the time for payment of any of the Guaranteed Obligations is stayed upon the insolvency, bankruptcy or reorganization of any 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 Lender.

SECTION 9.07. Information. Each Loan Guarantor assumes all responsibility for being and keeping itself informed of the Borrowers' 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 the Lender shall not have any duty to advise any Loan Guarantor of information known to it regarding those circumstances or risks.

SECTION 9.08. Termination. The Lender may continue to make loans or extend credit to the Borrowers based on this Loan Guaranty until five (5) days after it receives written notice of termination from any Loan Guarantor. Notwithstanding receipt of any such notice, each Loan Guarantor will continue to be liable to the Lender for any Guaranteed Obligations created, assumed or committed to prior to the fifth day after receipt of the notice, and all subsequent renewals, extensions, modifications and amendments with respect to, or substitutions for, all or any part of such Guaranteed Obligations. Nothing in this Section 9.08 shall be deemed to constitute a waiver of, or eliminate, limit, reduce or otherwise impair any rights or remedies the Lender may have in respect of, any Default or Event of Default that shall exist under Article VII hereof as a result of any such notice of termination.

SECTION 9.09. Taxes. Each payment of the Guaranteed Obligations will be made by each Loan Guarantor without withholding for any Taxes, unless such withholding is required by law. If any Loan Guarantor determines, in its sole discretion exercised in good faith, that it is so required to withhold Taxes, then such Loan Guarantor may so withhold and shall timely pay the full amount of withheld Taxes to the relevant Governmental Authority in accordance with applicable law. If such Taxes are Indemnified Taxes, then the amount payable by such Loan Guarantor shall be increased as necessary so that, net of such withholding (including such withholding applicable to additional amounts payable under this Section), the Lender receives the amount it would have received had no such withholding been made.

SECTION 9.10. Maximum Liability. Notwithstanding any other provision of this Loan Guaranty, the amount guaranteed by each Loan Guarantor hereunder shall be limited to the extent, if any, required so that its obligations hereunder shall not be subject to avoidance under Section 548 of the Bankruptcy Code or under any applicable state Uniform Fraudulent Transfer Act, Uniform Fraudulent Conveyance Act or similar statute or common law. In determining the limitations, if any, on the amount of any Loan Guarantor's obligations hereunder pursuant to the preceding sentence, it is the intention of the parties hereto that any rights of subrogation, indemnification or contribution which such Loan Guarantor may have under this Loan Guaranty, any other agreement or applicable law shall be taken into account.

SECTION 9.11. Contribution.

(a) To the extent that any Loan Guarantor shall make a payment under this Loan Guaranty (a "Guarantor Payment") which, taking into account all other Guarantor Payments then previously or concurrently made by any other Loan Guarantor, exceeds the amount which otherwise would have been paid by or attributable to such Loan Guarantor if each Loan Guarantor had paid the aggregate Guaranteed Obligations satisfied by such Guarantor Payment in the same proportion as such Loan Guarantor's "Allocable Amount" (as defined below) (as determined immediately prior to such Guarantor Payment) bore to the aggregate Allocable Amounts of each of the Loan Guarantors as determined immediately prior to the making of such Guarantor Payment, then, following indefeasible payment in full in cash of the Guarantor Payment and the Guaranteed Obligations (other than Unliquidated Obligations that have not yet arisen), and the Commitment and all Letters of Credit have terminated or expired or, in the case of all Letters of Credit, are fully collateralized on terms reasonably acceptable to the Lender, and this Agreement, the Swap Agreement Obligations and the Banking Services Obligations have terminated, such Loan Guarantor shall be entitled to receive contribution and indemnification payments from, and be reimbursed by, each other Loan Guarantor for the amount of such excess, pro rata based upon their respective Allocable Amounts in effect immediately prior to such Guarantor Payment.

(b) As of any date of determination, the “Allocable Amount” of any Loan Guarantor shall be equal to the excess of the fair saleable value of the property of such Loan Guarantor over the total liabilities of such Loan Guarantor (including the maximum amount reasonably expected to become due in respect of contingent liabilities, calculated, without duplication, assuming each other Loan Guarantor that is also liable for such contingent liability pays its ratable share thereof), giving effect to all payments made by other Loan Guarantors as of such date in a manner to maximize the amount of such contributions.

(c) This Section 9.11 is intended only to define the relative rights of the Loan Guarantors, and nothing set forth in this Section 9.11 is intended to or shall impair the obligations of the Loan Guarantors, jointly and severally, to pay any amounts as and when the same shall become due and payable in accordance with the terms of this Loan Guaranty.

(d) The parties hereto acknowledge that the rights of contribution and indemnification hereunder shall constitute assets of the Loan Guarantor or Loan Guarantors to which such contribution and indemnification is owing.

(e) The rights of the indemnifying Loan Guarantors against other Loan Guarantors under this Section 9.11 shall be exercisable upon the full and indefeasible payment of the Guaranteed Obligations in cash (other than Unliquidated Obligations that have not yet arisen) and the termination or expiry (or, in the case of all Letters of Credit, full cash collateralization), on terms reasonably acceptable to the Lender, of the Commitment and all Letters of Credit issued hereunder and the termination of this Agreement, the Swap Agreement Obligations and the Banking Services Obligations.

SECTION 9.12. Liability Cumulative. The liability of each Loan Party as a Loan Guarantor under this Article IX is in addition to and shall be cumulative with all liabilities of each Loan Party to the Lender under this Agreement and the other Loan Documents to which such Loan Party is a party or in respect of any obligations or liabilities of the other Loan Parties, without any limitation as to amount, unless the instrument or agreement evidencing or creating such other liability specifically provides to the contrary.

SECTION 9.13. 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 other Loan Party to honor all of its obligations under this Guarantee in respect of a Swap Obligation (provided, however, that each Qualified ECP Guarantor shall only be liable under this Section 9.13 for the maximum amount of such liability that can be hereby incurred without rendering its obligations under this Section 9.13 or otherwise under this Loan Guaranty voidable under applicable law relating to fraudulent conveyance or fraudulent transfer, and not for any greater amount). Except as otherwise provided herein, the obligations of each Qualified ECP Guarantor under this Section 9.13 shall remain in full force and effect until the termination of all Swap Obligations. Each Qualified ECP Guarantor intends that this Section 9.13 constitute, and this Section 9.13 shall be deemed to constitute, a “keepwell, support, or other agreement” for the benefit of each other Loan Party for all purposes of Section 1a(18)(A)(v)(II) of the Commodity Exchange Act.

ARTICLE X

The Borrower Representative.

SECTION 10.01. Appointment; Nature of Relationship. Hickok is hereby appointed by each of the Borrowers as its contractual representative (herein referred to as the “Borrower Representative” hereunder and under each other Loan Document, and each of the Borrowers irrevocably authorizes the Borrower Representative to act as the contractual representative of such Borrower with the rights and duties expressly set forth herein and in the other Loan Documents. The Borrower Representative agrees to act as such contractual representative upon the express conditions contained in this Article X. Additionally, the Borrowers hereby appoint the Borrower Representative as their agent to receive all of the proceeds of the Loans in the Funding Account(s), at which time the Borrower Representative shall promptly disburse such Loans to the appropriate Borrower(s), provided that, in the case of a Revolving Loan, such amount shall not exceed Availability. The Lender, and its respective officers, directors, agents or employees, shall not be liable to the Borrower Representative or any Borrower for any action taken or omitted to be taken by the Borrower Representative or the Borrowers pursuant to this Section 10.01.

SECTION 10.02. Powers. The Borrower Representative shall have and may exercise such powers under the Loan Documents as are specifically delegated to the Borrower Representative by the terms of each thereof, together with such powers as are reasonably incidental thereto. The Borrower Representative shall have no implied duties to the Borrowers, or any obligation to the Lender to take any action thereunder except any action specifically provided by the Loan Documents to be taken by the Borrower Representative.

SECTION 10.03. Employment of Agents. The Borrower Representative may execute any of its duties as the Borrower Representative hereunder and under any other Loan Document by or through authorized officers.

SECTION 10.04. Notices. Each Borrower shall immediately notify the Borrower Representative of the occurrence of any Default or Event of Default hereunder, refer to this Agreement, describe such Default or Event of Default, and state that such notice is a “notice of default”. In the event that the Borrower Representative receives such a notice, the Borrower Representative shall give prompt notice thereof to the Lender. Any notice provided to the Borrower Representative hereunder shall constitute notice to each Borrower on the date received by the Borrower Representative.

SECTION 10.05. Successor Borrower Representative. Upon the prior written consent of the Lender, the Borrower Representative may resign at any time, such resignation to be effective upon the appointment of a successor Borrower Representative.

SECTION 10.06. Execution of Loan Documents. The Borrowers hereby empower and authorize the Borrower Representative, on behalf of the Borrowers, to execute and deliver to the Lender the Loan Documents and all related agreements, certificates, documents, or instruments as shall be necessary or appropriate to effect the purposes of the Loan Documents, including the Compliance Certificates. Each Borrower agrees that any action taken by the Borrower Representative or the Borrowers in accordance with the terms of this Agreement or the other Loan Documents, and the exercise by the Borrower Representative 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 Borrowers.

SECTION 10.07. Reporting. Each Borrower hereby agrees that such Borrower shall furnish promptly after each fiscal month to the Borrower Representative any certificate or report required hereunder or requested by the Borrower Representative on which the Borrower Representative shall rely to prepare the Compliance Certificate required pursuant to the provisions of this Agreement.

[Signature Page Follows]

SCHEDULE 3.05

Properties, etc.

SCHEDULE 3.06

Disclosed Matters

SCHEDULE 3.12

Material Agreements

SCHEDULE 3.14

Insurance

SCHEDULE 3.15

Capitalization and Subsidiaries

SCHEDULE 3.22

Affiliate Transactions

SCHEDULE 4.01

Customer Consents

SCHEDULE 6.01

Existing Indebtedness

SCHEDULE 6.02

Existing Liens

SCHEDULE 6.04

Existing Investments

SCHEDULE 6.10

Existing Restrictions

EXHIBIT A

OPINION OF COUNSEL FOR THE LOAN PARTIES

[FINAL UNSIGNED FORM TO BE ATTACHED]

EXHIBIT B

[RESERVED]

EXHIBIT C

COMPLIANCE CERTIFICATE

To: JPMorgan Chase Bank, N.A.

This Compliance Certificate ("Certificate"), for the period ended _____, 201_, is furnished pursuant to that certain Credit Agreement dated as of June 1, 2017 (as amended, modified, renewed or extended from time to time, the "Agreement") among CRAWFORD UNITED CORPORATION (f/k/a Hickok Incorporated), an Ohio corporation ("Hickok"), CRAWFORD AE LLC, an Ohio limited liability company (f/k/a Hickok Acquisition AE LLC which was f/k/a Air Enterprises LLC which was f/k/a Hickok Acquisition A LLC) ("Hickok Air Enterprises"), SUPREME ELECTRONICS CORP., a Mississippi corporation ("Supreme"), FEDERAL HOSE MANUFACTURING LLC, an Ohio limited liability company ("Federal"), DATA GENOMIX LLC (f/k/a Hickok Operating LLC), an Ohio limited liability company ("Data"), WAEKON CORPORATION, an Ohio corporation ("Waekon"), CAD ENTERPRISES, INC., an Arizona corporation ("CAD"), MARINE PRODUCTS INTERNATIONAL LLC, an Ohio limited liability company (f/k/a Crawford United Acquisition Company, LLC) ("Crawford Acquisition"), KOMTEK FORGE LLC, a Massachusetts limited liability company (f/k/a KT Acquisition LLC) ("KomTek"), GLOBAL-TEK-MANUFACTURING LLC, a Puerto Rican limited liability company ("Global-Tek", and together with Hickok, Hickok Air Enterprises, Supreme, Federal, Data, Waekon, CAD, Crawford Acquisition and Komtek, collectively, the "Borrowers", and each individually a "Borrower"), the other Loan Parties, and JPMORGAN CHASE BANK, N.A., as Lender. Unless otherwise defined herein, capitalized terms used in this Certificate have the meanings ascribed thereto in the Agreement.

THE UNDERSIGNED HEREBY CERTIFIES THAT:

1. I am the of the Borrower Representative and I am authorized to deliver this Certificate on behalf of the Borrowers and their Subsidiaries in my capacity as an officer of the Borrower Representative;
2. I have reviewed the terms of the Agreement and I have made, or have caused to be made under my supervision, a detailed review of the compliance of the Borrowers and their Subsidiaries with the Agreement during the accounting period covered by the attached financial statements (the "Relevant Period");
3. The attached financial statements of the Borrowers and, as applicable, their Subsidiaries and/or Affiliates for the Relevant Period: (a) have been prepared on an accounting basis (the "Accounting Method") consistent with the requirements of the Agreement and, except as may have been otherwise expressly agreed to in the Agreement, in accordance with GAAP consistently applied, and (b) to the extent that the attached are not the Borrowers' annual fiscal year end statements, are subject to normal year-end audit adjustments and the absence of footnotes;
4. The examinations described in paragraph 2 did not disclose and I have no knowledge of, except as set forth below, (a) the existence of any condition or event which constitutes a Default or an Event of Default under the Agreement or any other Loan Document during or at the end of the Relevant Period or as of the date of this Certificate or (b) any change in the Accounting Method or in the application thereof that has occurred since the date of the annual financial statements delivered to the Lender in connection with the closing of the Agreement or subsequently delivered as required in the Agreement;

5. I hereby certify that, except as set forth below, no Loan Party has changed (i) its name, (ii) its chief executive office, (iii) its principal place of business, (iv) the type of entity it is or (v) its state of incorporation or organization without having given the Lender the notice required by Section 4.15 of the Security Agreement;

6. The representations and warranties of the Loan Parties set forth in the Loan Documents are true and correct in all material respects as of the date hereof, except (i) to the extent that any such representation or warranty specifically refers to an earlier date, in which case it is true and correct in all material respects only as of such earlier date, and (ii) that any representation or warranty which is subject to any materiality qualifier is true and correct in all respects;

7. Schedule I attached hereto sets forth financial data and computations evidencing the Borrowers' compliance with certain covenants of the Agreement, all of which data and computations are true, complete and correct; and

Described below are the exceptions, if any, referred to in paragraph 4 hereof by listing, in detail, the (i) nature of the condition or event, the period during which it has existed and the action which the Borrowers have taken, are taking, or propose to take with respect to each such condition or event or (ii) change in the Accounting Method or the application thereof and the effect of such change on the attached financial statements:

The foregoing certifications, together with the computations set forth in Schedule I and Schedule II hereto and the financial statements delivered with this Certificate in support hereof, are made and delivered this day of , .

CRAWFORD UNITED CORPORATION,
as the Borrower Representative

By: _____
Name: _____
Title: _____

Schedule I to Compliance Certificate

Compliance as of _____, ____ with
Provisions of and of the Agreement

EXHIBIT D

JOINDER AGREEMENT

THIS JOINDER AGREEMENT (this "Agreement"), dated as of [____], 20[___] is entered into between _____, a _____ (the "New Subsidiary") and JPMORGAN CHASE BANK, N.A. (the "Lender") under that certain Credit Agreement dated as of June 1, 2017 (as the same may be amended, modified, extended or restated from time to time, the "Credit Agreement") among CRAWFORD UNITED CORPORATION (f/k/a Hickok Incorporated), an Ohio corporation ("Hickok"), CRAWFORD AE LLC, an Ohio limited liability company (f/k/a Hickok Acquisition AE LLC which was f/k/a Air Enterprises LLC which was f/k/a Hickok Acquisition A LLC) ("Hickok Air Enterprises"), SUPREME ELECTRONICS CORP., a Mississippi corporation ("Supreme"), FEDERAL HOSE MANUFACTURING LLC, an Ohio limited liability company ("Federal"), DATA GENOMIX LLC (f/k/a Hickok Operating LLC), an Ohio limited liability company ("Data"), WAEKON CORPORATION, an Ohio corporation ("Waekon"), CAD ENTERPRISES, INC., an Arizona corporation ("CAD"), MARINE PRODUCTS INTERNATIONAL LLC, an Ohio limited liability company (f/k/a Crawford United Acquisition Company, LLC) ("Crawford Acquisition"), KOMTEK FORGE LLC, a Massachusetts limited liability company (f/k/a KT Acquisition LLC) ("KomTek"), GLOBAL-TEK-MANUFACTURING LLC, a Puerto Rican limited liability company ("Global-Tek", and together with Hickok, Hickok Air Enterprises, Supreme, Federal, Data, Waekon, CAD, Crawford Acquisition and Komtek, collectively, the "Borrowers", and each individually a "Borrower"), the other Loan Parties party thereto, and the Lender. All capitalized terms used herein and not otherwise defined herein shall have the meanings set forth in the Credit Agreement.

The New Subsidiary and the Lender, hereby agree as follows:

1. The New Subsidiary hereby acknowledges, agrees and confirms that, by its execution of this Agreement, the New Subsidiary will be deemed to be a Loan Party under the Credit Agreement and a [Loan Guarantor] for all purposes of the Credit Agreement and shall have all of the obligations of a Loan Party and a [Loan Guarantor] thereunder as if it had executed the Credit Agreement. 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 Credit Agreement, including without limitation (a) all of the representations and warranties of the Loan Parties set forth in Article III of the Credit Agreement, (b) all of the covenants set forth in Articles V and VI of the Credit Agreement and (c) all of the guaranty obligations set forth in Article IX of the Credit Agreement. Without limiting the generality of the foregoing terms of this paragraph 1, the New Subsidiary, subject to the limitations set forth in Section 9.10 and 9.13 of the Credit Agreement, hereby guarantees, jointly and severally with the other Loan Guarantors, to the Lender, as provided in Article IX of the Credit Agreement, the prompt payment and performance of the Guaranteed Obligations in full when due (whether at stated maturity, as a mandatory prepayment, by acceleration or otherwise) strictly in accordance with the terms thereof and agrees that if any of the Guaranteed Obligations are not paid or performed in full when due (whether at stated maturity, as a mandatory prepayment, by acceleration or otherwise), the New Subsidiary will, jointly and severally together with the other [Loan Guarantors], promptly pay and perform the same, without any demand or notice whatsoever, and that in the case of any extension of time of payment or renewal of any of the Guaranteed Obligations, the same will be promptly paid in full when due (whether at extended maturity, as a mandatory prepayment, by acceleration or otherwise) in accordance with the terms of such extension or renewal.

2. If required, the New Subsidiary is, simultaneously with the execution of this Agreement, executing and delivering such Collateral Documents (and such other documents and instruments) as requested by the Lender in accordance with the Credit Agreement.

3. The address of the New Subsidiary for purposes of Section 8.01 of the Credit Agreement is as follows:

4. The New Subsidiary hereby waives acceptance by the Lender of the guaranty by the New Subsidiary upon the execution of this Agreement by the New Subsidiary.

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 together shall constitute one and the same instrument.

6. THIS AGREEMENT AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES HEREUNDER SHALL BE GOVERNED BY AND CONSTRUED AND INTERPRETED IN ACCORDANCE WITH THE LAWS OF THE STATE OF OHIO.

IN WITNESS WHEREOF, the New Subsidiary has caused this Agreement to be duly executed by its authorized officer, and the Lender, has caused the same to be accepted by its authorized officer, as of the day and year first above written.

[NEW SUBSIDIARY]

By: _____
Name: _____
Title: _____

Acknowledged and accepted:

JPMORGAN CHASE BANK, N.A.

By: _____
Name: _____
Title: _____

EXHIBIT E

CAPEX DRAW REQUEST

[Date]

To: JPMorgan Chase Bank, N.A.

The undersigned, HICKOK INCORPORATED, an Ohio corporation ("Borrower Representative"), refers to the Credit Agreement dated as of June 1, 2017 (as amended, restated, supplemented or otherwise modified from time to time, the "Credit Agreement", the terms defined herein being used herein as therein defined), among the Borrower Representative, HICKOK AE LLC, an Ohio limited liability company (f/k/a Air Enterprises LLC which was f/k/a Hickok Acquisition A LLC), SUPREME ELECTRONICS CORP., a Mississippi corporation, FEDERAL HOSE MANUFACTURING LLC, an Ohio limited liability company, HICKOK OPERATING LLC, an Ohio limited liability company, WAEKON CORPORATION, an Ohio corporation, CAD ENTERPRISES, INC., an Arizona corporation (collectively, the "Borrowers"), and JPMORGAN CHASE BANK, N.A. (the "Lender"), and hereby gives you notice, irrevocably, pursuant to Section 2.03(b) of the Credit Agreement, that the Borrowers hereby request one or more CapEx Loans under the Credit Agreement, and in that connection sets forth in the schedule attached hereto the information relating to each such CapEx Loan (collectively, the "Borrowing") as required by Section 2.03(b) of the Credit Agreement.

The undersigned hereby requests that a CapEx Loan in the amount of \$ _____ in connection with the new machinery and/or equipment on the attached Schedule 1 be made on _____, 201__ (such date must be a Business Day).

The name of the Borrower purchasing the equipment is: _____.

Wiring instructions, if required, are set forth on Schedule 2.

The Borrowing shall be a (check one): ___ CBFRR Borrowing or ___ Eurodollar Borrowing.

In the case of a Eurodollar Borrowing, the initial Interest Period to be applicable thereto is one month.

The undersigned hereby certifies that (a) the Borrowing requested hereby does not exceed 100% of the hard costs of the new machinery and/or equipment described on Schedule 1 and a true, correct and complete copy of such invoice is attached hereto; (b) the machinery and/or equipment has previously been paid for in full by Borrowers; and (c) the other provisions of Section 5.08 are satisfied.

Very truly yours,

HICKOK INCORPORATED, as Borrower
Representative

By: _____

Name: _____

Title: _____

SCHEDULE 1 TO CAPEX DRAW REQUEST

<u>Loans on CapEx Invoices</u>					
Hard Cost*	Advance Rate	Permitted Loan	Less Prior Loans for Deposits on Same CapEx	CapEx Loan Requested	Cumulative CapEx Loans**
0	80%	0	0	0	0
0	80%	0	0	0	0
0	80%	0	0	0	0
0	80%	0	0	0	0
0	80%	0	0	0	0
0	80%	0	0	0	0
0	80%	0	0	0	0
0	80%	0	0	0	0
0	80%	0	0	0	0
0		0	0	0	0%

*See attached supporting documentation.

**Not to exceed 80% of hard costs

SCHEDULE 2 TO CAPEX DRAW REQUEST

Breakdown of Wires

Crawford United Corporation Acquires Global-Tek Manufacturing and Machining Technology

CLEVELAND, March 02, 2021 (GLOBE NEWSWIRE) -- Crawford United Corporation (OTC: CRAWA) today announced the purchase of Global-Tek Manufacturing in Ceiba, Puerto Rico and Machining Technology in Longmont, Colorado effective March 1, 2021. The acquired businesses provide customers in the defense, aerospace, and medical device markets with highly engineered manufacturing solutions, including CNC machining, die casting, anodizing, electro polishing, and laser marking.

“Global-Tek and Machining Technology are strategically important to our growing presence in the aerospace and defense markets,” said Brian Powers, CEO of Crawford United. “These acquisitions will expand our offerings and diversify our customer base in this important market segment,” he added.

The acquisitions are expected to add approximately \$8 million in annualized revenue to Crawford United and be immediately accretive to earnings.

About Crawford United Corporation. Crawford United Corporation is a growth-oriented holding company providing specialty industrial products to diverse markets, including healthcare, aerospace, education, transportation, and petrochemical. For more information, go to www.crawfordunited.com.

Information about Forward Looking Statements. This press release contains forward-looking statements within the meaning of the “Safe Harbor” provisions of the Private Securities Litigation Reform Act of 1995, including statements made regarding the company’s future results. Generally, these statements can be identified by the use of words such as “guidance,” “outlook,” “believes,” “estimates,” “anticipates,” “expects,” “forecasts,” “seeks,” “projects,” “intends,” “plans,” “may,” “will,” “should,” “could,” “would” and similar expressions intended to identify forward-looking statements, although not all forward-looking statements contain these identifying words. Actual results and events may differ significantly from those anticipated as a result of risks and uncertainties, including deterioration of or instability in the economy, the markets the Company serves and the financial markets, developments and uncertainties in U.S. laws and policy, decreased availability or increased costs of materials used in producing the Company’s products, contractions or growth rates and seasonality or cyclicity of markets the Company serves, competition, loss of any key customer, the Company’s ability to successfully integrate the businesses it acquires and achieve the anticipated benefits of such acquisitions (including the anticipated addition of annualized revenue from the Global-Tek and Machining Technology acquisitions), the impact of divestitures and dispositions, the impact of the Company’s debt obligations on its operations and liquidity, as well as the risks described from time to time in the company’s reports as filed with the Securities and Exchange Commission. Further information on potential factors that could affect the financial results of the Company and its forward-looking statements is included in its most recent Form 10-K and subsequent filings with the Securities and Exchange Commission. The Company assumes no obligation to update any forward-looking statement, except as may be required by law. These forward-looking statements speak only as of the date of this release. All forward-looking statements are qualified in their entirety by this cautionary statement.

Brian E. Powers
Chairman & CEO
216-243-2449
bpowers@crawfordunited.com

“Crawford United has a great future behind it.”

Contact:
Brian E. Powers, Chairman and Chief Executive Officer
CRAWFORD UNITED CORPORATION
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Cleveland, Ohio 44108
216-243-2449