

(3) to the extent applicable, a completed standard “life of loan” flood hazard determination form,

(4) together with each Mortgage, evidence that each such Mortgage has been duly executed, acknowledged and delivered by a duly authorized representative of each party thereto on or before such date in a form suitable for filing and recording in all appropriate local filing or recording offices that the Collateral Agent may deem reasonably necessary or desirable in order to create a valid and subsisting Lien on the property described therein in favor of the Collateral Agent for the benefit of the Secured Parties, subject only to Permitted Liens, and that all filing and recording taxes and fees have been paid or otherwise provided for in a manner reasonably satisfactory to the Collateral Agent; *provided* that to the extent any property to be subject to a Mortgage is located in a jurisdiction that imposes mortgage recording taxes, intangibles tax, documentary tax or similar recording fees or taxes, the relevant Mortgage shall not secure an amount in excess of the Fair Market Value of such property subject thereto and shall not secure the Obligations in respect of Letters of Credit or the Revolving Credit Facility in those states that impose a mortgage tax on pay-downs or re-advances applicable thereto, and

(5) evidence of payment of title insurance premiums and expenses and all recording, mortgage, transfer, intangibles, documentary and stamp taxes and fees payable in connection with recording the Mortgage, any amendments thereto and any fixture filings (which shall only be required if the applicable Mortgage cannot serve as a fixture filing in the applicable jurisdiction) in appropriate county land office(s).

(f) at any time and from time to time, promptly execute and deliver any and all further instruments and documents and take all such other action as the Collateral Agent in its reasonable judgment may deem necessary or desirable in obtaining the full benefits of, or in perfecting and preserving the Liens of, such guaranties, Mortgages, Security Agreement Supplements, Intellectual Property Security Agreement Supplements, Collateral Documents and security agreements, in each case, with respect to guaranteeing and/or securing Obligations consistent with the terms hereof, in each case to the extent required under the Loan Documents and subject to the Perfection Exceptions.

For the avoidance of doubt, nothing in this Section 6.12 or in Section 6.14 shall be deemed to require any Borrower Party to grant security interests or take steps with respect to perfection thereof to the extent such steps are not required in the Collateral Documents entered into on the Closing Date (or after the Closing Date in accordance with Section 6.16).

**Section 6.13 Compliance with Environmental Laws.** Except, in each case, to the extent that the failure to do so would not reasonably be expected to have a Material Adverse Effect, (a) comply, and take commercially reasonable efforts to cause all lessees operating or occupying its properties to comply with all Environmental Laws and Environmental Permits; (b) obtain, maintain and renew all applicable Environmental Permits necessary for its operations and properties; and (c) to the extent required under Environmental Laws, conduct any investigation, mitigation, study, sampling and testing, and undertake any cleanup, removal or remedial, corrective or other action necessary to respond to and remove and clean up Hazardous Materials from any of its properties, in accordance with the requirements of applicable Environmental Laws; *provided, however*, that no Borrower Party shall be required to undertake any such cleanup, removal, remedial, corrective or other action to the extent that its obligation to do so is being contested in good faith and by proper proceedings and appropriate reserves are being maintained with respect to such circumstances in accordance with GAAP.

Section 6.14 Further Assurances. Promptly upon request by the Administrative Agent, or the Collateral Agent or any Lender through the Administrative Agent, and subject to the limitations described in Section 6.12, (i) correct any material defect or error that may be discovered in any Loan Document or other document or instrument relating to any Collateral or in the execution, acknowledgment, filing or recordation thereof and (ii) do, execute, acknowledge, deliver, record, re-record, file, re-file, register and re-register any and all such further acts, deeds, certificates, assurances and other instruments as the Administrative Agent, or the Collateral Agent or any Lender through the Administrative Agent, may reasonably require from time to time in order to grant, preserve, protect and continue the validity, perfection and priority of the security interests created or intended to be created by the Collateral Documents. Notwithstanding anything to the contrary in any Loan Documents, no Loan Party shall be required to make any filings or take any other actions to perfect, evidence or create the Lien on and security interest in any intellectual property except for filings in the United States Patent and Trademark Office or the United States Copyright Office and the filing of UCC financing statement, and no Loan Party shall be required to reimburse the Administrative Agent or the Collateral Agent for any costs incurred in connection with any filings or actions to perfect, evidence or create the Lien on and security interest in any intellectual property other than in connection with such filings in the United States Patent and Trademark Office or the United States Copyright Office and the filing of such UCC financing statements. Promptly following any request therefor, provide information and documentation reasonably requested by the Administrative Agent or any Lender for purposes of compliance with applicable “know your customer” requirements under applicable anti-money-laundering laws, the PATRIOT Act and the Beneficial Ownership Regulation.

Section 6.15 Maintenance of Ratings. Use commercially reasonable efforts to obtain and maintain (but not obtain or maintain a specific rating) a public corporate family rating of the Parent Borrower and a rating of the Term Facilities, in each case from two of the following (as selected by the Parent Borrower: Moody’s, S&P or Fitch (it being understood and agreed that “commercially reasonable efforts” shall in any event include the payment by the Borrowers of customary ratings agency fees and cooperation with information and data requests by Moody’s, S&P or Fitch in connection with their ratings process).

Section 6.16 Post-Closing Undertakings. Within the time periods specified on Schedule 6.16 hereto (as each may be extended by the Administrative Agent in its reasonable discretion), provide such Collateral Documents and complete such undertakings as are set forth on Schedule 6.16 hereto.

Section 6.17 No Change in Line of Business; Fiscal Year.

(a) Not engage in any material lines of business substantially different from those lines of business conducted by the Borrower Parties on the date hereof or any business reasonably related, complementary, synergistic, incidental or ancillary thereto or reasonable extensions thereof.

(b) Not make any change in the fiscal year of the Parent Borrower other than with the written consent of the Administrative Agent (not to be unreasonably withheld, conditioned, denied or delayed); *provided, that* without the consent of the Administrative Agent, such changes may be made with respect to the financial records of an acquired entity pursuant to any acquisition and the assets or equity acquired in an acquisition. The Parent Borrower and the Administrative Agent are hereby authorized by the Lenders to make any technical amendments or modifications to this Agreement contained herein that are reasonably necessary in order to reflect such change in fiscal year.

Section 6.18 Unrestricted Subsidiaries.

(a) The Parent Borrower may designate any Subsidiary of the Parent Borrower (other than a Borrower or any direct or indirect parent of a Borrower) that at the time of determination shall be

designated by the Board of Directors of the Parent Borrower in the manner provided, and subject to the restrictions set forth in, clause (b) below.

(b) The Board of Directors of the Parent Borrower may designate any Subsidiary of the Parent Borrower (including any existing Subsidiary and any newly acquired or newly formed Subsidiary of the Parent Borrower, but excluding any Borrower or any direct or indirect parent of a Borrower) to be an Unrestricted Subsidiary; *provided*, that immediately after giving effect to such designation, no Event of Default shall have occurred and be continuing as a result of such designation. The designation of any Restricted Subsidiary as an Unrestricted Subsidiary after the Closing Date shall constitute an Investment by the Parent Borrower (or its applicable Restricted Subsidiary) therein at the date of designation in an amount equal to the Fair Market Value of the Parent Borrower's or the applicable Restricted Subsidiary's investment therein.

(c) The Board of Directors of the Parent Borrower may designate any Unrestricted Subsidiary to be a Restricted Subsidiary (a "**Subsidiary Redesignation**"). Any Indebtedness of such Subsidiary and any Liens encumbering its assets at the time of such designation shall be deemed newly incurred or established, as applicable, at such time the Fair Market Value of the Parent Borrower's or such Restricted Subsidiaries' investment therein at the time of redesignation shall constitute a return on any investment therein.

For the avoidance of doubt, the no Borrower may be designated as an Unrestricted Subsidiary at any time; *provided, however*, that any Co-Borrower that has ceased to be a Co-Borrower pursuant to Section 11.03 prior to the effectiveness of such designation may be designated as an Unrestricted Subsidiary (*provided* that such designation is otherwise permitted hereunder).

Notwithstanding the foregoing, (i) no ownership of intellectual property may be transferred to (including by way of an exclusive license) an Unrestricted Subsidiary by any Borrower Party to the extent such intellectual property is material to the business of the Borrower Parties (taken as a whole) after giving effect to such transfer (or exclusive license) (such intellectual property, "**Material IP**") and (ii) no Restricted Subsidiary may be designated an Unrestricted Subsidiary if, on the date of and after giving effect to such designation, such Unrestricted Subsidiary would own (or hold an exclusive license with respect to) any Material IP; *provided* that the foregoing shall not restrict any Borrower Party from entering into a non-exclusive license of Material IP in the ordinary course of business.

## ARTICLE VII

### NEGATIVE COVENANTS

Until the Termination Date, each Borrower shall not, nor shall it permit any other Restricted Subsidiary to:

Section 7.01 Indebtedness. Incur any Indebtedness (including Acquired Indebtedness) or issue any shares of Disqualified Stock, and the Parent Borrower will not and will not permit any of its Non-Loan Party Subsidiaries (or any Restricted Subsidiary which will become a Non-Loan Party Subsidiary as a result of such issuance) to issue any shares of Preferred Stock; *provided, however*, that the Borrowers and any Restricted Subsidiary may incur Indebtedness (including Acquired Indebtedness) or issue shares of Disqualified Stock and any Non-Loan Party Subsidiary may issue shares of Preferred Stock, in each case, in an amount not to exceed the Incremental Amount as of the date of Incurrence (subject to Section 1.02(i)) and, for the avoidance of doubt, at their option, the Borrowers and any Restricted Subsidiary may issue shares of Disqualified Stock and any Non-Loan Party Subsidiary may issue shares of Preferred Stock in reliance on clause (c) of the definition of the Maximum Leverage / Minimum Interest Coverage

Requirement; *provided* that such Indebtedness, Disqualified Stock or Preferred Stock (1) other than with respect to the initial maturity date for Extendable Bridge Loans/Interim Debt and Ratio Debt in an amount not in excess of the Inside Maturity Basket at the time of Incurrence, has a Stated Maturity that is no earlier than the Latest Maturity Date, (2) has a Weighted Average Life to Maturity at the time such Indebtedness is Incurred that is not less than the then longest remaining Weighted Average Life to Maturity of any then outstanding Term Loans; *provided*, that Ratio Debt in the form of Extendable Bridge Loans/Interim Debt and amounts not in excess of the maximum aggregate principal amount then permitted to be incurred in reliance on the Inside Maturity Basket may have a Weighted Average Life to Maturity shorter than the then longest remaining Weighted Average Life to Maturity of any then outstanding Term Loans, (3) in the case of any revolving Indebtedness, has a Stated Maturity that is no earlier than the Maturity Date applicable to the Initial Revolving Tranche and (4) shall for purposes of mandatory prepayments not be treated more favorably than the existing Term Loans (such Indebtedness Incurred and Disqualified Stock and Preferred Stock issued, “**Ratio Debt**”); *provided, further*, that (i) the aggregate principal amount of Indebtedness (including Acquired Indebtedness) Incurred and Disqualified Stock or Preferred Stock issued pursuant to the foregoing by Non-Loan Party Subsidiaries shall not exceed the Non-Loan Party Sublimit as of the date of Incurrence (subject to Section 1.02(i)) and (ii) clauses (1) through (4) of this paragraph shall not apply to Indebtedness incurred by a Non-Loan Party Subsidiary.

The foregoing limitations will not apply to (collectively, “**Permitted Debt**”):

(a) (x) Indebtedness arising under the Loan Documents including any refinancing thereof in accordance with Section 2.18, (y) Indebtedness evidenced by Refinancing Notes and any Permitted Refinancing thereof (or successive Permitted Refinancings thereof) and (z) Indebtedness evidenced by Incremental Equivalent Debt and any Permitted Refinancing thereof (or successive Permitted Refinancings thereof);

(b) [reserved];

(c) Indebtedness and Disqualified Stock of the Borrower Parties and Preferred Stock of its Restricted Subsidiaries (other than Indebtedness described in clause (a) or (b) above) that is existing on the Closing Date and, solely to the extent in excess of \$10,000,000, listed on Schedule 7.01 and for the avoidance of doubt, including all Capitalized Lease Obligations existing on the Closing Date listed on Schedule 7.01 and Permitted Refinancings thereof;

(d) Indebtedness (including, without limitation, Capitalized Lease Obligations and mortgage financings as purchase money obligations) Incurred by any Borrower Party, Disqualified Stock issued by any Borrower Party and Preferred Stock issued by any of its Restricted Subsidiaries to finance all or any part of the purchase, lease, construction, installation, repair or improvement of property (real or personal), plant or equipment or other fixed or capital assets (whether through the direct purchase of assets or the Capital Stock of any Person owning such assets) and Indebtedness, Disqualified Stock or Preferred Stock arising from the conversion of the obligations of any Borrower Party under or pursuant to any “synthetic lease” transactions to on-balance sheet Indebtedness of any Borrower Party, in an aggregate principal amount or maximum fixed repurchase price, including all Indebtedness Incurred and Disqualified Stock or Preferred Stock issued to renew, refund, refinance, replace, defease or discharge any Indebtedness Incurred or Disqualified Stock or Preferred Stock issued pursuant to this clause (d), not to exceed the greater of (x) \$65,800,000 and (y) 35.0% of Four Quarter Consolidated EBITDA, at any one time outstanding, *plus*, in the case of any refinancing of any Indebtedness, Disqualified Stock or Preferred Stock permitted under this clause (d) or any portion thereof, any Refinancing Expenses; *provided* that Capitalized Lease Obligations Incurred by any Borrower Party pursuant to this clause (d) in connection with a Sale/Leaseback Transaction shall not be subject to the foregoing limitation so long as the proceeds of such Sale/Leaseback Transaction are used by any Borrower Party to permanently repay outstanding Term Loans under this

Agreement or other Indebtedness (other than revolving Indebtedness, except to the extent accompanied by a permanent commitment reduction) that is secured by a Lien on the Collateral on a *pari passu* basis with the Loans under this Agreement (it being understood that any Indebtedness, Disqualified Stock or Preferred Stock Incurred pursuant to this clause (d) shall cease to be deemed Incurred or outstanding pursuant to this clause (d) but shall be deemed Incurred and outstanding as Ratio Debt from and after the first date on which any Borrower Party, as the case may be, could have Incurred such Indebtedness, Disqualified Stock or Preferred Stock as Ratio Debt (to the extent any Borrower Party is able to Incur any Liens related thereto as Permitted Liens after such reclassification));

(e) Indebtedness Incurred by any Borrower Party constituting reimbursement obligations with respect to letters of credit or bank guarantees or similar instruments issued in the ordinary course of business, including, without limitation, (i) letters of credit or performance or surety bonds in respect of workers' compensation claims, health, disability or other employee benefits (whether current or former) or property, casualty or liability insurance or self-insurance, or other Indebtedness with respect to reimbursement-type obligations regarding workers' compensation claims, health, disability or other employee benefits (whether current or former) or property, casualty or liability insurance and (ii) guarantees of Indebtedness Incurred by customers in connection with the purchase or other acquisition of equipment or supplies in the ordinary course of business;

(f) the Incurrence of Indebtedness, Disqualified Stock or Preferred Stock arising from agreements of the Parent Borrower or its Restricted Subsidiaries providing for indemnification, earn-outs, adjustment of purchase or acquisition price or similar obligations, in each case, Incurred in connection with the Transactions or with the acquisition or disposition of any business, assets or a Subsidiary of the Parent Borrower in accordance with this Agreement, other than guarantees of Indebtedness Incurred or Disqualified Stock or Preferred Stock issued by any Person acquiring all or any portion of such business, assets or Subsidiary for the purpose of financing such acquisition;

(g) Indebtedness or Disqualified Stock of any Borrower owing to a Restricted Subsidiary; *provided* that (i) such Indebtedness or Disqualified Stock owing to a Non-Loan Party Subsidiary shall be subordinated in right of payment to the Borrowers' Obligations with respect to this Agreement pursuant to the Intercompany Subordination Agreement and (ii) any subsequent issuance or transfer of any Capital Stock or any other event that results in any such Restricted Subsidiary ceasing to be a Restricted Subsidiary or any other subsequent transfer of any such Indebtedness or Disqualified Stock (except to another Restricted Subsidiary) shall be deemed, in each case, to be an Incurrence of such Indebtedness or an issuance of such Disqualified Stock not permitted by this clause (g);

(h) shares of Preferred Stock of a Restricted Subsidiary issued to any Borrower or another Restricted Subsidiary; *provided* that any subsequent issuance or transfer of any Capital Stock or any other event that results in any Restricted Subsidiary that holds such shares of Preferred Stock of another Restricted Subsidiary ceasing to be a Restricted Subsidiary or any other subsequent transfer of any such shares of Preferred Stock (except to any Borrower or another Restricted Subsidiary) shall be deemed, in each case, to be an issuance of shares of Preferred Stock not permitted by this clause (h);

(i) Indebtedness, Disqualified Stock or Preferred Stock of a Restricted Subsidiary or any Borrower owing to any Borrower or another Restricted Subsidiary; *provided* that (x) if a Borrower or a Subsidiary Guarantor Incurs such Indebtedness, Disqualified Stock or Preferred Stock owing to a Non-Loan Party Subsidiary, such Indebtedness, Disqualified Stock or Preferred Stock shall be subordinated in right of payment to the Borrowers' Obligations with respect to this Agreement pursuant to the Intercompany Subordination Agreement and (y) any subsequent issuance or transfer of any Capital Stock or any other event that results in any Restricted Subsidiary lending such Indebtedness, Disqualified Stock or Preferred Stock ceasing to be a Restricted Subsidiary or any other subsequent transfer of any such Indebtedness,

Disqualified Stock or Preferred Stock (except to a Borrower or another Restricted Subsidiary) shall be deemed, in each case, to be an Incurrence of such Indebtedness, Disqualified Stock or Preferred Stock not permitted by this clause (i);

(j) Swap Contracts and Cash Management Services Incurred (including, without limitation, in connection with any Qualified Receivables Financing), other than for speculative purposes;

(k) obligations (including reimbursement obligations with respect to letters of credit or bank guarantees or similar instruments) in respect of customs, self-insurance, performance, bid, appeal and surety bonds and completion guarantees and similar obligations provided by any Borrower Party;

(l) Indebtedness or Disqualified Stock of any Borrower Party and Preferred Stock of any of its Restricted Subsidiaries in an aggregate principal amount or maximum fixed repurchase price that, when aggregated with the principal amount or maximum fixed repurchase price of all other Indebtedness, Disqualified Stock and Preferred Stock then outstanding and Incurred pursuant to this clause (l), does not exceed, at any one time outstanding, (i) the greater of (x) \$188,000,000 and (y) 100.0% of Four Quarter Consolidated EBITDA, *plus* (ii) at Parent Borrower's option, the unutilized portions of clauses (5), (11), and (22)(a) of Section 7.05 and the aggregate principal amount of any such incurrence or issuance shall reduce the amount available under such baskets set forth in Section 7.05 (in each case, less any amounts reallocated to the Cash-Capped Incremental Facility pursuant to Section 2.14(a)(w)(ii) and not subsequently deemed incurred under the Ratio-Based Incremental Facility); *provided*, notwithstanding anything to the contrary contained herein, any amounts incurred under clause (ii) or any clause (ii) amounts reallocated to and incurred under the Cash-Capped Incremental Facility, may not be secured on a pari passu basis with the Liens securing the Initial Term Loans, *plus*, in the case of any refinancing of any Indebtedness, Disqualified Stock or Preferred Stock permitted under this clause (l) or any portion thereof, any Refinancing Expenses (it being understood that any Indebtedness Incurred or Disqualified Stock or Preferred Stock issued pursuant to this clause (l) shall cease to be deemed Incurred, issued or outstanding pursuant to this clause (l) but shall be deemed Incurred or issued and outstanding as Ratio Debt from and after the first date on which any Borrower Party, as the case may be, could have Incurred such Indebtedness or issued such Disqualified Stock or Preferred Stock as Ratio Debt (to the extent any Borrower Party is able to Incur any Liens related thereto as Permitted Liens after such reclassification));

(m) any guarantee by any Borrower Party of Indebtedness, Disqualified Stock, Preferred Stock or other obligations of any Borrower Party so long as the Incurrence of such Indebtedness, Disqualified Stock, Preferred Stock or other obligations by any Borrower Party is permitted under the terms of this Agreement;

(n) the Incurrence by any Borrower Party of Indebtedness or Disqualified Stock or the issuance of Preferred Stock of a Restricted Subsidiary that serves to refund, refinance, replace, redeem, repurchase, retire or defease, and is in an aggregate principal amount or maximum fixed repurchase price (or if issued with original issue discount an aggregate issue price) that is less than or equal to, Indebtedness Incurred or Disqualified Stock or Preferred Stock issued as Ratio Debt or permitted under clause (c), this clause (n), clause (o) or clause (r) of this paragraph or subclause (y) of each of clauses (d), (l), (t), (cc) or (dd) of this paragraph (*provided* that any amounts Incurred under this clause (n) as Refinancing Indebtedness in respect of Indebtedness Incurred pursuant to subclause (y) of any of these clauses shall reduce the amount available under such subclause (y) of such clause so long as such Refinancing Indebtedness remains outstanding) or any Indebtedness Incurred or Disqualified Stock or Preferred Stock issued to so refund, replace, refinance, redeem, repurchase, retire or defease such Indebtedness, Disqualified Stock or Preferred Stock, *plus* any Refinancing Expenses (subject to the following proviso, "**Refinancing Indebtedness**"); *provided, however*, that such Refinancing Indebtedness:

(1) has a Weighted Average Life to Maturity at the time such Refinancing Indebtedness is Incurred that is not less than the remaining Weighted Average Life to Maturity of the Indebtedness, Disqualified Stock or Preferred Stock being refunded, refinanced, replaced, redeemed, repurchased or retired (which, in the case of bridge loans or Extendable Bridge Loans/Interim Debt, shall be determined by reference to the notes or loans into which such bridge loans or Extendable Bridge Loans/Interim Debt are converted or for which such bridge loans or Extendable Bridge Loans/Interim Debt are exchanged at maturity and will be subject to other customary offers to repurchase or mandatory prepayments upon a change of control, asset sale or event of loss and customary acceleration rights after an event of default); *provided* that Refinancing Indebtedness in the form of Extendable Bridge Loans/Interim Debt and amounts not in excess of the maximum aggregate principal amount or maximum fixed repurchase price then permitted to be incurred in reliance on the Inside Maturity Basket may have a Weighted Average Life to Maturity that is shorter than the remaining Weighted Average Life to Maturity of the Indebtedness, Disqualified Stock or Preferred Stock being refunded, refinanced, replaced, redeemed, repurchased or retired;

(2) in the case of any revolving Indebtedness, has a Stated Maturity that is no earlier than the Stated Maturity of the Indebtedness being refunded, refinanced, replaced, redeemed, repurchased or retired (which, in the case of bridge loans or Extendable Bridge Loans/Interim Debt, shall be determined by reference to the notes or loans into which such bridge loans or Extendable Bridge Loans/Interim Debt are converted or for which such bridge loans or Extendable Bridge Loans/Interim Debt are exchanged at maturity and will be subject to other customary offers to repurchase or mandatory prepayments upon a change of control, asset sale or event of loss and customary acceleration rights after an event of default), or if earlier the date that is no earlier than the Latest Maturity Date; *provided* that Refinancing Indebtedness in the form of Extendable Bridge Loans/Interim Debt and amounts not in excess of the maximum aggregate principal amount or maximum fixed repurchase price then permitted to be incurred in reliance on the Inside Maturity Basket may have a maturity date that is earlier than the Latest Maturity Date of the Indebtedness, Disqualified Stock or Preferred Stock being refunded, refinanced, replaced, redeemed, repurchased or retired;

(3) to the extent that such Refinancing Indebtedness refinances (i) Subordinated Indebtedness, such Refinancing Indebtedness is Subordinated Indebtedness or (ii) Disqualified Stock or Preferred Stock, such Refinancing Indebtedness is Disqualified Stock or Preferred Stock, respectively;

(4) shall not include (x) Indebtedness, Disqualified Stock or Preferred Stock of a Non-Loan Party Subsidiary that refinances Indebtedness, Disqualified Stock or Preferred Stock of the Borrower or a Guarantor or (y) Indebtedness, Disqualified Stock or Preferred Stock of the Borrower or Indebtedness, Disqualified Stock or Preferred Stock of a Restricted Subsidiary that refinances Indebtedness, Disqualified Stock or Preferred Stock of an Unrestricted Subsidiary;

(5) to the extent such Refinancing Indebtedness is secured, the Liens securing such Refinancing Indebtedness have a Lien priority equal to or junior to the Indebtedness being refunded, refinanced, replaced, redeemed, repurchased or retired;

(6) in the event any such Refinancing Indebtedness is secured by Collateral, such Indebtedness shall be subject to Applicable Intercreditor Arrangements; and

(7) the aggregate outstanding principal amount of Indebtedness Incurred and Disqualified Stock or Preferred Stock issued pursuant to this clause (n) by Non-Loan Party Subsidiaries that refunds, refinances, replaces, redeems, repurchases or retires Indebtedness Incurred as Ratio Debt or Ratio Acquisition Debt (or Refinancing Indebtedness in respect thereof) shall not exceed the Non-Loan Party Sublimit as of the date of Incurrence (subject to Section 1.02(i)), *plus* Refinancing Expenses;

(o) (1) Indebtedness, Disqualified Stock or Preferred Stock (i) of the Borrower or any Restricted Subsidiaries Incurred or assumed in connection with an acquisition of any assets (including Capital Stock), business or Person or any similar Investment and (ii) of any Person that is acquired by any Borrower Party or merged into or consolidated or amalgamated with any Borrower Party in accordance with the terms of this Agreement and (2) Indebtedness Incurred or Disqualified Stock or Preferred Stock issued or, in each case, assumed in anticipation of, or in connection with, an acquisition of any assets (including Capital Stock), business or Person or any similar Investment; *provided, however*, that after giving Pro Forma Effect to such acquisition, merger, consolidation or amalgamation and the Incurrence of such Indebtedness, Disqualified Stock or Preferred Stock, the Borrower would be permitted to Incur at least \$1.00 of additional Indebtedness as Ratio Debt (such Indebtedness, Disqualified Stock and Preferred Stock issued, “**Ratio Acquisitions Debt**”);

*provided, further*, that (1) the aggregate outstanding principal amount of Indebtedness Incurred and Disqualified Stock or Preferred Stock issued pursuant to this clause (o) by Non-Loan Party Subsidiaries shall not exceed the Non-Loan Party Sublimit as of the date of Incurrence (subject to Section 1.02(i)) and (2) such Indebtedness, Disqualified Stock or Preferred Stock (A) other than with respect to the initial maturity date for Extendable Bridge Loans/Interim Debt and amounts not in excess of the maximum aggregate principal amount or maximum fixed repurchase price then permitted to be incurred in reliance on the Inside Maturity Basket, has a Stated Maturity that is no earlier than the Latest Maturity Date, (B) has a Weighted Average Life to Maturity at the time such Indebtedness is Incurred or Disqualified Stock or Preferred Stock of Non-Loan Party Subsidiaries is issued that is not less than the then longest remaining Weighted Average Life to Maturity of any then outstanding Term Loans; *provided*, that any such Indebtedness in the form of Extendable Bridge Loans/Interim Debt and amounts not in excess of the maximum aggregate principal amount or maximum fixed repurchase price, as applicable, then permitted to be incurred in reliance on the Inside Maturity Basket may have a Weighted Average Life to Maturity shorter than the then longest remaining Weighted Average Life to Maturity of any then outstanding Term Loans, (C) in the case of any revolving Indebtedness, has a Stated Maturity that is no earlier than the Maturity Date applicable to the Revolving Credit Facility and (D) shall for purposes of mandatory prepayments not be treated more favorably than the existing Term Loans;

(p) Indebtedness of any Borrower Party arising from netting services, overdraft protection or the honoring by a bank or other financial institution of a check, draft or similar instrument drawn against insufficient funds in the ordinary course of business;

(q) Indebtedness of any Borrower Party supported by a letter of credit or bank guarantee issued pursuant to any credit facility permitted hereunder, so long as such letter of credit has not been terminated and is in a principal amount not in excess of the stated amount of such letter of credit or bank guarantee;



(r) Contribution Indebtedness;

(s) Indebtedness, Disqualified Stock or Preferred Stock of any Borrower Party consisting of (x) the financing of insurance premiums or (y) take-or-pay obligations contained in supply arrangements, in each case, in the ordinary course of business;

(t) Indebtedness, Disqualified Stock or Preferred Stock of Non-Loan Party Subsidiaries in an aggregate principal amount or maximum fixed repurchase price, as applicable, not to exceed the greater of (x) \$94,000,000 and (y) 50.0% of Four Quarter Consolidated EBITDA at the time of Incurrence *plus*, in the case of any refinancing of any Indebtedness, Disqualified Stock or Preferred Stock permitted under this clause (t) or any portion thereof, any Refinancing Expenses (it being understood that any Indebtedness Incurred or Disqualified Stock or Preferred Stock issued pursuant to this clause (t) shall cease to be deemed Incurred, issued or outstanding pursuant to this clause (t) but shall be deemed Incurred or issued and outstanding as Ratio Debt from and after the first date on which such Non-Loan Party Subsidiary could have Incurred such Indebtedness or issued such Disqualified Stock or Preferred Stock as Ratio Debt (to the extent such Non-Loan Party Subsidiary is able to Incur any Liens related thereto as Permitted Liens after such reclassification));

(u) Indebtedness, Disqualified Stock or Preferred Stock of a joint venture to any Borrower Party and to the other holders of Equity Interests or participants of such joint venture, so long as the percentage of the aggregate amount of such Indebtedness, Disqualified Stock or Preferred Stock of such joint venture owed to such holders of its Equity Interests or participants of such joint venture does not exceed the percentage of the aggregate outstanding amount of the Equity Interests of such joint venture held by such holders or such participant's participation in such joint venture;

(v) Indebtedness Incurred or Disqualified Stock or Preferred Stock issued in a Qualified Receivables Financing or Qualified Receivables Factoring that is not recourse to any Borrower Party (except for Standard Securitization Undertakings) other than (x) a Receivables Subsidiary or (y) a Person described in the definition of "Factoring Transaction" in an aggregate outstanding principal amount of such Indebtedness, Disqualified Stock or Preferred Stock shall not exceed, at any time outstanding, the greater of (x) \$47,000,000 and (y) 25.0% of Four Quarter Consolidated EBITDA at the time of Incurrence;

(w) Indebtedness owed on a short-term basis to banks and other financial institutions in the ordinary course of business of the Borrower Parties with such banks or financial institutions that arises in connection with ordinary banking arrangements, including cash management, cash pooling arrangements and related activities to manage cash balances of the Borrower and its Subsidiaries and joint ventures including treasury, depository, overdraft, credit, purchasing or debit card, electronic funds transfer and other cash management arrangements and Indebtedness in respect of credit card programs, automatic clearinghouse arrangements and similar arrangements;

(x) Indebtedness, Disqualified Stock or Preferred Stock consisting of Indebtedness, Disqualified Stock or Preferred Stock issued by any Borrower Party to future, current or former officers, directors, managers, employees, consultants and independent contractors thereof or any direct or indirect parent thereof, their respective estates, heirs, family members, spouses or former spouses, in each case to finance the purchase or redemption of Equity Interests of Parent Borrower;

(y) customer deposits and advance payments received in the ordinary course of business from customers for goods purchased in the ordinary course of business;

(z) Indebtedness Incurred by any Borrower Party in connection with bankers' acceptances, discounted bills of exchange, warehouse receipts or similar facilities or the discounting or

factoring of receivables for credit management purposes, in each case Incurred or undertaken in the ordinary course of business;

(aa) Indebtedness by and among the Parent Borrower and any Restricted Subsidiary in connection with a Permitted Tax Reorganization;

(bb) (i) guarantees Incurred in the ordinary course of business in respect of obligations to suppliers, customers, franchisees, lessors, licensees, sub-licensees and distribution partners and (ii) Indebtedness Incurred by any Borrower Party as a result of leases entered into by any Borrower Party in the ordinary course of business;

(cc) the Incurrence by any Borrower Party of Indebtedness Incurred or Disqualified Stock or Preferred Stock issued on behalf, or representing guarantees of Indebtedness Incurred or Disqualified Stock or Preferred Stock issued by, joint ventures; *provided* that the aggregate principal amount or maximum fixed repurchase price, as applicable, of Indebtedness Incurred or guaranteed or Disqualified Stock or Preferred Stock issued or guaranteed pursuant to this clause (cc) does not exceed, at any time outstanding, the greater of (x) \$47,000,000 and (y) 25.0% of Four Quarter Consolidated EBITDA at the time of Incurrence, *plus*, in the case of any refinancing of any Indebtedness, Disqualified Stock or Preferred Stock permitted under this clause (cc) or any portion thereof, any Refinancing Expenses (it being understood that any Indebtedness Incurred or Disqualified Stock or Preferred Stock issued pursuant to this clause (cc) shall cease to be deemed Incurred, issued or outstanding pursuant to this clause (cc) but shall be deemed Incurred or issued and outstanding as Ratio Debt from and after the first date on which any Borrower Party could have Incurred or guaranteed such Indebtedness or issued or guaranteed such Disqualified Stock or Preferred Stock as Ratio Debt (to the extent any Borrower Party is able to Incur any Liens related thereto as Permitted Liens after such reclassification));

(dd) Indebtedness, Disqualified Stock or Preferred Stock of any Borrower Party (1) assumed in connection with an acquisition of any assets (including Capital Stock), business or Person or (2) Incurred to finance such acquisition, limited to, in the case of this clause (2), in an aggregate principal amount or maximum fixed repurchase price that does not exceed, at any time outstanding, (A) the greater of (x) \$188,000,000 and (y) 100.0% of Four Quarter Consolidated EBITDA at the time of Incurrence *plus* (B) the aggregate amount available under the Prepayment-Based Incremental Facility *plus* (C) an unlimited amount so long as (i) for any such Indebtedness that is secured by a Lien on the Collateral on a *pari passu* basis with the Initial Term Loans, the Consolidated First Lien Net Leverage Ratio on a Pro Forma Basis does not exceed the Incremental Ratio Test, (ii) for any such Indebtedness that is secured by a Lien on the Collateral on a junior basis to the Initial Term Loans, the Consolidated Senior Secured Net Leverage Ratio on a Pro Forma Basis does not exceed the Junior Lien Incremental Ratio Test and (iii) for any such Indebtedness secured by a Lien on assets not constituting Collateral or unsecured, the Consolidated Net Leverage Ratio on a Pro Forma Basis does not exceed (or decrease if with respect to the Interest Coverage Ratio) the Unsecured Incremental Ratio Test *minus* (D) the principal amount of Indebtedness then utilized and outstanding under the Cash-Capped Incremental Facility *plus* (E) in the case of any refinancing of any Indebtedness, Disqualified Stock or Preferred Stock permitted under this clause (dd) or any portion thereof, any Refinancing Expenses (it being understood that any Indebtedness Incurred or Disqualified Stock or Preferred Stock issued pursuant to this clause (dd) shall cease to be deemed Incurred, issued or outstanding pursuant to this clause (dd) but shall be deemed Incurred or issued and outstanding as Ratio Debt from and after the first date on which any Borrower Party, as the case may be, could have Incurred or guaranteed such Indebtedness or issued or guaranteed such Disqualified Stock or Preferred Stock as Ratio Debt (to the extent any Borrower Party is able to Incur any Liens related thereto as Permitted Liens after such reclassification)); *provided*, that any Indebtedness incurred by non-Loan Parties under this clause (dd)(2) shall be subject to the Non-Loan Party Sublimit; *provided, further*, that any such Indebtedness incurred by