

(j) Liens on Property or assets acquired pursuant to an acquisition permitted under Section 7.7 (and the proceeds thereof) or assets of a Restricted Subsidiary in existence at the time such Restricted Subsidiary is acquired pursuant to an acquisition permitted under Section 7.7 and not created in contemplation thereof and Liens created after the Closing Date in connection with any refinancing, refundings, or renewals or extensions of the obligations secured thereby permitted hereunder, *provided* that no such Lien is spread to cover any additional Property after the Closing Date;

(k) (i) Liens on Property of Non-Guarantor Subsidiaries securing Indebtedness or other obligations not prohibited by this Agreement to be incurred by such Non-Guarantor Subsidiaries and (ii) Liens securing Indebtedness or other obligations of the Borrower or any Subsidiary in favor of any Loan Party;

(l) receipt of progress payments and advances from customers in the ordinary course of business to the extent same creates a Lien on the related inventory and proceeds thereof;

(m) Liens in favor of customs and revenue authorities arising as a matter of law to secure the payment of customs duties in connection with the importation of goods;

(n) Liens arising out of consignment or similar arrangements for the sale by the Borrower and its Restricted Subsidiaries of goods through third parties in the ordinary course of business;

(o) Liens solely on any cash earnest money deposits made by the Borrower or any of its Restricted Subsidiaries in connection with an Investment permitted by Section 7.7;

(p) Liens deemed to exist in connection with Investments permitted by Section 7.7(b) that constitute repurchase obligations;

(q) Liens upon specific items of inventory or other goods and proceeds of the Borrower or any of its Restricted Subsidiaries arising in the ordinary course of business securing such Person's obligations in respect of bankers' acceptances and letters of credit issued or created for the account of such Person to facilitate the purchase, shipment or storage of such inventory or other goods;

(r) Liens on cash deposits securing any Hedge Agreement permitted hereunder;

(s) any interest or title of a lessor under any leases or subleases entered into by the Borrower or any Restricted Subsidiary in the ordinary course of business and any financing statement filed in connection with any such lease;

(t) Liens on cash or Cash Equivalents used to defease or to satisfy and discharge Indebtedness, *provided* that such defeasance or satisfaction and discharge is not prohibited hereunder;

(u) (i) Liens that are contractual rights of set-off (A) relating to the establishment of depository relations with banks not given in connection with the issuance of Indebtedness, (B) relating to pooled deposit or sweep accounts of the Borrower or any Restricted Subsidiary to permit satisfaction of overdraft or similar obligations incurred in the ordinary course of business of the Borrower and the Subsidiaries or (C) relating to purchase orders and other agreements entered into with customers of the Borrower or any Restricted Subsidiary in the ordinary course of business and (ii) other Liens securing cash management obligations in the ordinary course of business;

(v) Liens arising solely by virtue of any statutory or common law provision relating to banker's liens, rights of set-off or similar rights;

(w) Liens on Capital Stock in joint ventures securing obligations of such joint venture;

(x) Liens on securities that are the subject of repurchase agreements constituting Cash Equivalents;

(y) Liens securing obligations in respect of trade-related letters of credit permitted under Section 7.2 and covering the goods (or the documents of title in respect of such goods) financed by such letters of credit and the proceeds and products thereof;

(z) other Liens with respect to obligations that do not exceed the greater of (i) \$200,000,000 and (ii) the amount of 32% of Consolidated EBITDA, as of the end of the most recently ended Test Period for which financial statements have been delivered pursuant to Section 6.1 at the time of such incurrence, at any one time outstanding;

(aa) Liens of a collection bank on items in the course of collection arising under Section 4-208 of the UCC as in effect in the State of New York or any similar section under any applicable UCC or any similar Requirement of Law of any foreign jurisdiction;

(bb) non-exclusive licenses of Intellectual Property granted by the Borrower or any of its Restricted Subsidiaries in the ordinary course of business and not interfering in any material respect with the ordinary conduct of business of the Borrower and its Restricted Subsidiaries, taken as a whole;

(cc) possessory Liens in favor of brokers and dealers arising in connection with the acquisition or disposition of Investments permitted by this Agreement; *provided* that such Liens (i) attach only to such Investments and (ii) secure only obligations incurred in the ordinary course and arising in connection with the acquisition or disposition of such Investments and not any obligation in connection with margin financing or otherwise;

(dd) trustees' Liens granted pursuant to any indenture governing any Indebtedness not otherwise prohibited by this Agreement in favor of the trustee under such indenture and securing only obligations to pay compensation to such trustee, to reimburse its expenses and to indemnify it under the terms thereof;

(ee) (i) Liens of a collection bank arising under Section 4-210 of the UCC on items in the course of collection and (ii) Liens encumbering reasonably customary initial deposits and margin deposits attaching to commodity trading accounts or other brokerage accounts incurred in the ordinary course of business and not for speculative purposes; and

(ff) Liens of assets of a Foreign Subsidiary securing working capital, lines of credit and overdraft lines of such Foreign Subsidiary to the extent permitted by this Agreement.

For purposes of determining compliance with this Section 7.3, in the event that any secured Indebtedness is classified, reclassified or divided at any time in accordance with the last paragraph of Section 7.2, and the Lien securing such Indebtedness meets the criteria of more than one of the categories of Liens described in clauses (a) through (ff) above, then at such time, the Borrower may, in its sole discretion, classify and reclassify or divide such Lien (or any portion thereof) in any manner that complies with this Section 7.3 and may include the amount and type of such Lien in one or more of the above clauses or subclauses.

**7.4 Fundamental Changes.** Consummate any merger, consolidation or amalgamation, or liquidate, wind up or dissolve itself (or suffer any liquidation or dissolution), or Dispose of all or substantially all of its Property or business, except that:

(a) (i) any Restricted Subsidiary may be merged, amalgamated or consolidated with or into the Borrower (*provided* that the Borrower shall be the continuing or surviving corporation) or (ii) any

Restricted Subsidiary may be merged, amalgamated or consolidated with or into any Guarantor (*provided* that (x) a Guarantor shall be the continuing or surviving corporation or (y) substantially simultaneously with such transaction, the continuing or surviving corporation shall become a Guarantor and the Borrower shall comply with Section 6.8 in connection therewith);

(b) any Non-Guarantor Subsidiary may be merged or consolidated with or into, or be liquidated into, any other Non-Guarantor Subsidiary that is a Restricted Subsidiary;

(c) any Restricted Subsidiary may Dispose of all or substantially all of its assets upon voluntary liquidation or otherwise to the Borrower or any Guarantor;

(d) any Non-Guarantor Subsidiary may Dispose of all or substantially all of its assets (upon voluntary liquidation, dissolution, winding-up or otherwise) to any other Non-Guarantor Subsidiary that is a Restricted Subsidiary;

(e) Dispositions permitted by Section 7.5 and any merger, dissolution, liquidation, consolidation, amalgamation, investment or Disposition, the purpose of which is to effect a Disposition permitted by Section 7.5 may be consummated;

(f) any Investment expressly permitted by Section 7.7 may be structured as a merger, consolidation or amalgamation;

(g) [Reserved]; and

(h) any Restricted Subsidiary may liquidate or dissolve if (i) the Borrower determines in good faith that such liquidation or dissolution is in the best interest of the Borrower and is not materially disadvantageous to the Lenders and (ii) to the extent such Restricted Subsidiary is a Loan Party, any assets or business of such Restricted Subsidiary not otherwise disposed of or transferred in accordance with Section 7.4 or 7.5 or, in the case of any such business, discontinued, shall be transferred to, or otherwise owned or conducted by, a Loan Party after giving effect to such liquidation or dissolution.

**7.5 Dispositions of Property.** Dispose of any of its owned Property (including receivables) whether now owned or hereafter acquired, or, in the case of any Restricted Subsidiary, issue or sell any shares of such Restricted Subsidiary's Capital Stock to any Person, except:

(a) (i) the Disposition of surplus, obsolete or worn out Property in the ordinary course of business, (ii) the sale of defaulted receivables in the ordinary course of business, (iii) abandonment, cancellation or disposition of any non-material Intellectual Property in the ordinary course of business and (iv) sales, leases or other dispositions of inventory determined by the management of the Borrower to be no longer useful or necessary in the operation of the Business;

(b) (i) the sale of inventory or other property in the ordinary course of business, (ii) the non-exclusive cross-licensing or licensing of Intellectual Property in the ordinary course of business, which is not material to the business of the Borrower and its Restricted Subsidiaries, taken as a whole and (iii) the contemporaneous exchange, in the ordinary course of business, of Property for Property of a like kind, to the extent that the Property received in such exchange is of a Fair Market Value equivalent to the Fair Market Value of the Property exchanged (*provided* that after giving effect to such exchange, the Fair Market Value of the Property of the Borrower or any Guarantor subject to Liens in favor of the Collateral Agent under the Security Documents is not materially reduced);

(c) Dispositions permitted by Section 7.4 (other than Section 7.4(e));

(d) the sale or issuance of (i) any Subsidiary's Capital Stock to the Borrower or any Guarantor; *provided* that the sale or issuance of Capital Stock of an Unrestricted Subsidiary to the Borrower or any Restricted Subsidiary is otherwise permitted by Section 7.7, (ii) the Capital Stock of any Non-Guarantor Subsidiary that is a Restricted Subsidiary to any other Non-Guarantor Subsidiary that is a Restricted Subsidiary and (iii) the Capital Stock of any Subsidiary that is an Unrestricted Subsidiary to any other Subsidiary that is an Unrestricted Subsidiary, in each case, including in connection with any tax restructuring activities not otherwise prohibited hereunder;

(e) (x) the Disposition of other assets for Fair Market Value; *provided* that (i) in the case of a Disposition having a Fair Market Value in excess of \$25,000,000, at least 75% of the total consideration (excluding any consideration by way of relief from, or by any other Person assuming responsibility for, any liabilities, contingent or otherwise, that are not Indebtedness) for any such Disposition received by the Borrower and its Restricted Subsidiaries is in the form of cash or Cash Equivalents and other Designated Noncash Consideration treated as cash so long as the total Designated Noncash Consideration outstanding at any time does not exceed the greater of \$63,000,000 and 10% of Consolidated EBITDA, as of the end of the most recently ended Test Period for which financial statements have been delivered pursuant to Section 6.1, in the aggregate, (ii) no Event of Default has occurred and is continuing or would immediately result therefrom and (iii) the requirements of Section 2.12(b), to the extent applicable, are complied with in connection therewith and (y) the Disposition of assets that are necessary or advisable, in the good faith judgment of the Borrower, in order to obtain the approval of any Governmental Authority to consummate or avoid the prohibition or other restrictions on the consummation of any Permitted Acquisition or any Investment permitted by Section 7.7; *provided* that the requirements of Section 2.12(b), to the extent applicable, are complied with in connection therewith;

(f) (i) any Recovery Event; *provided* that the requirements of Section 2.12(b) are complied with in connection therewith and (ii) any event that would constitute a Recovery Event but for the Dollar threshold set forth in the definition thereof;

(g) the leasing, occupancy agreements or sub-leasing of Property that would not materially interfere with the required use of such Property by the Borrower or its Restricted Subsidiaries;

(h) the transfer for Fair Market Value of Property (including Capital Stock of Subsidiaries) to another Person in connection with a joint venture arrangement with respect to the transferred Property; *provided* that such transfer is permitted under Section 7.7(h), (v) or (z);

(i) the sale or discount, in each case without recourse and in the ordinary course of business, of overdue accounts receivable arising in the ordinary course of business, but only in connection with the compromise or collection thereof consistent with customary industry practice (and not as part of any bulk sale or financing of receivables);

(j) transfers of condemned Property as a result of the exercise of "eminent domain" or other similar policies to the respective Governmental Authority or agency that has condemned the same (whether by deed in lieu of condemnation or otherwise), and transfers of properties that have been subject to a casualty to the respective insurer of such Property as part of an insurance settlement;

(k) the Disposition of any Immaterial Subsidiary or any Unrestricted Subsidiary;

(l) the transfer of Property (including Capital Stock of Subsidiaries) of the Borrower or any Guarantor to any Restricted Subsidiary for Fair Market Value;

(m) the transfer of Property (i) by the Borrower or any Guarantor to the Borrower or any other Guarantor or (ii) from a Non-Guarantor Subsidiary to (A) the Borrower or any Guarantor for no more than Fair Market Value or (B) any other Non-Guarantor Subsidiary that is a Restricted Subsidiary;

(n) the sale of cash or Cash Equivalents in the ordinary course of business;

(o) (i) Liens permitted by Section 7.3, (ii) Restricted Payments permitted by Section 7.6 (other than Section 7.6(i)) and (iii) Investments permitted by Section 7.7;

(p) Dispositions of Investments in joint ventures to the extent required by, or made pursuant to, customary buy/sell arrangements between the joint venture parties set forth in joint venture arrangements and similar binding arrangements; *provided* that the requirements of Section 2.12(b), to the extent applicable, are complied with in connection therewith;

(q) Dispositions of Property between or among the Borrower and/or its Restricted Subsidiaries as a substantially concurrent interim Disposition in connection with a Disposition otherwise permitted pursuant to clauses (a) through (p) above;

(r) a true lease or sublease of real property not materially interfering with the conduct of the business of the Borrower or any of its Restricted Subsidiaries, in each case so long as no such grant otherwise affects the Collateral Agent's security interest in the asset or property subject thereto;

(s) Dispositions of the assets set forth on Schedule 7.5(s);

(t) Dispositions by the Borrower or a Restricted Subsidiary of accounts receivables in connection with the factoring thereof pursuant to customary accounts receivables purchase facilities and on terms and conditions reasonably acceptable to the Administrative Agent; *provided*, that the aggregate amount of all outstanding accounts receivable subject to any such accounts receivables purchase facilities shall not exceed \$100,000,000 at any time; and

(u) the Disposition of other assets in an aggregate amount not to exceed \$75,000,000;

*provided* that, notwithstanding anything to the contrary in this Section 7.5, the Borrower or any of its Restricted Subsidiaries shall not be permitted to transfer or Dispose of any Intellectual Property to any Unrestricted Subsidiary if such Intellectual Property is material to the business of the Borrower and its Restricted Subsidiaries taken as a whole.

**7.6 Restricted Payments.** Declare or pay any dividend on, or make any payment on account of, or set apart assets for a sinking or other analogous fund for, (i) the purchase, redemption, defeasance, retirement or other acquisition of, any Capital Stock of the Borrower or any Subsidiary or (ii) the optional prepayment, redemption, purchase, defeasement or satisfaction, prior to the scheduled maturity thereof, of Indebtedness subordinated to the Obligations of the Borrower or any Guarantee thereof, whether now or hereafter outstanding, or make any other distribution in respect thereof, either directly or indirectly, whether in cash or Property or in obligations of the Borrower or any Restricted Subsidiary, or enter into any derivatives or other transaction with any financial institution, commodities or stock exchange or clearinghouse (a "***Derivatives Counterparty***") obligating the Borrower or any Restricted Subsidiary to make payments to such Derivatives Counterparty as a result of any change in market value of any such Capital Stock (collectively, "***Restricted Payments***"), except that:

(a) (i) any Restricted Subsidiary may make Restricted Payments to the Borrower or any Guarantor and (ii) Non-Guarantor Subsidiaries may make Restricted Payments to other Non-Guarantor Subsidiaries; *provided* that if (i) no Event of Default is continuing or would result therefrom (or, in the case of a Restricted Payment that is necessary or advisable (as determined by the Borrower in good faith) for the

consummation of a Limited Condition Acquisition, no Event of Default exists as of the date the definitive acquisition agreements for such Limited Condition Acquisition are entered into (or, if applicable, the date of delivery of an irrevocable notice or declaration of such Limited Condition Acquisition)) the Borrower may make Restricted Payments in an aggregate amount not to exceed the Available Amount, and (ii)(x) no Event of Default is continuing or would result therefrom (or, in the case of a Restricted Payment that is necessary or advisable (as determined by the Borrower in good faith) for the consummation of a Limited Condition Acquisition, no Event of Default exists as of the date the definitive acquisition agreements for such Limited Condition Acquisition are entered into (or, if applicable, the date of delivery of an irrevocable notice or declaration of such Limited Condition Acquisition)) and (y) the Consolidated Net Total Leverage Ratio shall not exceed 4.00 to 1.00 on a *pro forma* basis as of the end of the most recently ended Test Period for which financial statements have been delivered pursuant to Section 6.1 at the time of such Restricted Payment, the Borrower may make unlimited Restricted Payments;

(b) [Reserved];

(c) the Borrower may make Restricted Payments in the form of Capital Stock of the Borrower;

(d) the Borrower or any Subsidiary may make Restricted Payments to, directly or indirectly, purchase the Capital Stock of the Borrower from present or former officers, directors, consultants, agents or employees (or their estates, trusts, family members or former spouses) of the Borrower upon the death, disability, retirement or termination of the applicable officer, director, consultant, agent or employee or pursuant to any equity subscription agreement, stock option or equity incentive award agreement, shareholders' or members' agreement or similar agreement, plan or arrangement; *provided* that the aggregate amount of payments under this clause (d) in any fiscal year of the Borrower shall not exceed the sum of (i) \$25,000,000, *plus* (ii) any proceeds received from key man life insurance policies, *plus* (iii) any proceeds received by the Borrower during such fiscal year from sales of the Capital Stock of the Borrower to directors, consultants, officers or employees of the Borrower in connection with permitted employee compensation and incentive arrangements; *provided* that any Restricted Payments permitted (but not made) pursuant to this clause (d) in any prior fiscal year may be carried forward to any subsequent calendar year, and *provided, further*, that cancellation of Indebtedness owing to the Borrower or any Restricted Subsidiary by any member of management of the Borrower or its Restricted Subsidiaries in connection with a repurchase of the Capital Stock of the Borrower will not be deemed to constitute a Restricted Payment for purposes of this Section 7.6;

(e) [Reserved];

(f) [Reserved];

(g) [Reserved];

(h) [Reserved];

(i) to the extent constituting Restricted Payments, the Borrower and its Restricted Subsidiaries may enter into and consummate transactions expressly permitted by any provision of Sections 7.4, 7.5, 7.7 and 7.9;

(j) any non-wholly owned Restricted Subsidiary of the Borrower may declare and pay cash dividends to its equity holders generally so long as the Borrower or its respective Subsidiary which owns the equity interests in the Restricted Subsidiary paying such dividend receives at least its proportional share thereof (based upon its relative holding of the equity interests in the Restricted Subsidiary paying such

dividends and taking into account the relative preferences, if any, of the various classes of equity interest of such Restricted Subsidiary);

(k) to the extent constituting Restricted Payments, the Borrower and its Restricted Subsidiaries may consummate Permitted Refinancings of any Indebtedness subordinated to the Obligations of the Borrower or any Guarantee thereof to the extent such Permitted Refinancing is permitted under Section 7.2;

(l) the payment of any dividend or distribution or consummation of any redemption within 60 days after the date of declaration thereof or the giving of a redemption notice, as applicable, if at the date of declaration or the giving of such notice such payment would have complied with the provisions of this Agreement;;

(m) other Restricted Payments in the form of voluntary or optional prepayments or repurchases, retirements or redemptions of Indebtedness subordinated to the Obligations made on or after the Closing Date in an amount not to exceed \$25,000,000; and

(n) provided that no Event of Default is continuing or would result therefrom (or, in the case of a Restricted Payment that is necessary or advisable (as determined by the Borrower in good faith) for the consummation of a Limited Condition Acquisition, no Event of Default exists as of the date the definitive acquisition agreements for such Limited Condition Acquisition are entered into (or, if applicable, the date of delivery of an irrevocable notice or declaration of such Limited Condition Acquisition)), other Restricted Payments made on or after the Closing Date in an amount not to exceed \$315,000,000.

**7.7 Investments.** Make any advance, loan, extension of credit (by way of guaranty or otherwise) or capital contribution to, or purchase any Capital Stock, bonds, notes, debentures or other debt securities of, or all or substantially all of the assets constituting an ongoing business from, or make any other similar investment in, any other Person (all of the foregoing, “*Investments*”), except:

(a) (i) extensions of trade credit in the ordinary course of business and (ii) purchases and acquisitions of inventory, supplies, materials and equipment or purchases of contract rights or licenses or leases of Intellectual Property, in each case in the ordinary course of business, to the extent such purchases and acquisitions constitute Investments;

(b) Investments in cash and Cash Equivalents and Investments that were Cash Equivalents when made;

(c) Investments arising in connection with (i) the incurrence of Indebtedness permitted by Section 7.2 to the extent arising as a result of Indebtedness among the Borrower or any Restricted Subsidiary and Guarantee Obligations permitted by Section 7.2 and payments made in respect of such Guarantee Obligations, (ii) the forgiveness or conversion to equity of any Indebtedness permitted by Section 7.2 and (iii) guarantees by any Borrower or any Restricted Subsidiary of operating leases (other than Capital Lease Obligations) or of other obligations that do not constitute Indebtedness, in each case entered into in the ordinary course of business;

(d) loans and advances to employees, consultants or directors of any the Borrower or any of its Restricted Subsidiaries in the ordinary course of business in an aggregate amount (for and all Restricted Subsidiaries) not to exceed \$5,000,000 (excluding (for purposes of such cap) tuition advances, travel and entertainment expenses, but including relocation expenses) at any one time outstanding;

(e) Investments (other than those relating to the incurrence of Indebtedness permitted by Section 7.7(c)) by the Borrower or any of its Restricted Subsidiaries in the Borrower or any Person that, prior to such Investment, is a Guarantor or is a Domestic Subsidiary that becomes a Guarantor in connection with such Investment;

(f) (i) Permitted Acquisitions to the extent that any Person or Property acquired in such acquisition becomes a Guarantor or a part of the Borrower or any Guarantor or becomes (whether or not such Person is a wholly owned Subsidiary) a Guarantor in the manner contemplated by Section 6.8(c) and (ii) other Permitted Acquisitions in an aggregate purchase price in the case of this clause (ii) in an aggregate amount not to exceed (A) the greater of (x) \$316,000,000 and (y) 50% of Consolidated EBITDA as of the end of the most recently ended Test Period for which financial statements have been delivered pursuant to Section 6.1 plus (B) an amount equal to the Available Amount; *provided*, that immediately after giving effect to any such Permitted Acquisition the Borrower shall be in *pro forma* compliance with the financial covenants set forth in Section 7.1 as of the end of the most recently ended Test Period for which financial statements have been delivered pursuant to Section 6.1 at the time of such Permitted Acquisition;

(g) loans by the Borrower or any of its Restricted Subsidiaries to the employees, officers or directors of the Borrower or any of its Restricted Subsidiaries in connection with management incentive plans;

(h) Investments by the Borrower and its Restricted Subsidiaries in joint ventures or similar arrangements and Non-Guarantor Subsidiaries in an aggregate amount at any one time outstanding (for the Borrower and all Restricted Subsidiaries), not to exceed the sum of (A) the greater of (x) \$100,000,000 and (y) 16% of Consolidated EBITDA as of the end of the most recently ended Test Period for which financial statements have been delivered pursuant to Section 6.1 plus (B) an amount equal to the Available Amount; *provided*, that any Investment made for the purpose of funding a Permitted Acquisition permitted under Section 7.7(f) shall not be deemed a separate Investment for the purposes of this clause (h); *provided, further*, that no Investment may be made pursuant to this clause (h) in any Unrestricted Subsidiary for the purpose of making a Restricted Payment prohibited pursuant to Section 7.6;

(i) Investments (including debt obligations) received in the ordinary course of business by the Borrower or any Restricted Subsidiary in connection with the bankruptcy or reorganization of suppliers, customers and other Persons and in settlement of delinquent obligations of, and other disputes with, suppliers, customers and other Persons arising out of the ordinary course of business;

(j) Investments by any Non-Guarantor Subsidiary in any other Non-Guarantor Subsidiary;

(k) Investments in existence on, or pursuant to legally binding written commitments in existence on, the Closing Date and listed on Schedule 7.7 and, in each case, any extensions or renewals thereof, so long as the amount of any Investment made pursuant to this clause (k) is not increased;

(l) Investments of the Borrower or any Restricted Subsidiary under Hedge Agreements permitted hereunder;

(m) Investments of any Person in existence at the time such Person becomes a Restricted Subsidiary; *provided* that such Investment was not made in connection with or in anticipation of such Person becoming a Restricted Subsidiary;

(n) Investments in connection with the Maximus Deferred Compensation Plan maintained in a Rabbi Trust consistent with past practices;



(o) Investments consisting of (i) accounts receivables incurred in the ordinary course of business and consistent with past practice, (ii) negotiable instruments held for collection in the ordinary course of business and consistent with past practice, (iii) lease, utility and other similar deposits in the ordinary course of business, and (iv) securities of trade creditors or customers that are received in settlement of bona fide disputes or pursuant to any plan of reorganization or liquidation or similar arrangement upon the bankruptcy or insolvency of such trade creditors or customers;

(p) Subsidiaries of the Borrower may be established or created, if (i) to the extent such new Subsidiary is a Domestic Subsidiary, the Borrower and such Subsidiary comply with the provisions of Section 6.8(c) and (ii) to the extent such new Subsidiary is a Foreign Subsidiary, the Borrower complies with the provisions of Section 6.8(d); *provided* that, in each case, to the extent such new Subsidiary is created solely for the purpose of consummating a merger, consolidation, amalgamation or similar transaction pursuant to an acquisition permitted by this Section 7.7, and such new Subsidiary at no time holds any assets or liabilities other than any consideration contributed to it contemporaneously with the closing of such transactions, such new Subsidiary shall not be required to take the actions set forth in Section 6.8(c) or 6.8(d), as applicable, until the respective acquisition is consummated (at which time the surviving entity of the respective transaction shall be required to so comply within 10 Business Days or such longer period as the Administrative Agent shall agree);

(q) Investments arising directly out of the receipt by the Borrower or any Restricted Subsidiary of non-cash consideration for any sale of assets permitted under Section 7.5;

(r) Investments resulting from pledges and deposits referred to in Sections 7.3(c) and (d);

(s) Investments consisting of the non-exclusive licensing of Intellectual Property pursuant to joint marketing arrangements with other persons;

(t) any Investment in a Foreign Subsidiary to the extent such Investment is substantially contemporaneously repaid in full with a dividend or other distribution from such Foreign Subsidiary;

(u) Investments in the ordinary course of business consisting of UCC Article 3 endorsements for collection or deposit and UCC Article 4 customary trade arrangements with customers consistent with past practices;

(v) additional Investments so long as the aggregate amount thereof outstanding at no time exceeds the sum of (i) the greater of (x) \$126,500,000 and (y) 20% of Consolidated EBITDA as of the end of the most recently ended Test Period for which financial statements have been delivered pursuant to Section 6.1 plus (ii) an amount equal to the Available Amount; *provided* that no Investment may be made pursuant to this clause (v) in any Unrestricted Subsidiary for the purpose of making a Restricted Payment prohibited pursuant to Section 7.6;

(w) advances of payroll payments to employees, or fee payments to directors or consultants, in the ordinary course of business;

(x) [Reserved]

(y) the Closing Date Acquisition; and

(z) *provided* that (x) if no Event of Default is continuing immediately after giving effect thereto (or, in the case of an Investment that is necessary or advisable (as determined by the Borrower in good faith) for the consummation of a Limited Condition Acquisition, no Event of Default exists as of

the date the definitive acquisition agreements for such Limited Condition Acquisition are entered into) and (y) the Consolidated Net Total Leverage Ratio shall not exceed 4.00 to 1.00 on a *pro forma* basis as of the end of the most recently ended Test Period for which financial statements have been delivered pursuant to Section 6.1 at the time of such Investment, any Investment.

Notwithstanding the foregoing, no Investment of any Intellectual Property may be made by the Borrower or any Restricted Subsidiary to an Unrestricted Subsidiary (including by designating a Restricted Subsidiary that owns Intellectual Property as an Unrestricted Subsidiary) if such Intellectual Property is material to the business of the Borrower and its Restricted Subsidiaries taken as a whole.

It is further understood and agreed that for purposes of determining the value of any Investment outstanding for purposes of this Section 7.7, such amount shall be deemed to be the amount of such Investment when made, purchased or acquired less any returns on such Investment (not to exceed the original amount invested). Notwithstanding the foregoing, no Investment in an Unrestricted Subsidiary is permitted under this Section 7.7, unless such Investment is permitted pursuant to clause (h), (v) or (z) above.

#### 7.8 [RESERVED].

7.9 Transactions with Affiliates. Enter into any transaction, including any purchase, sale, lease or exchange of Property, the rendering of any service or the payment of any management, advisory or similar fees, with any Affiliate (other than the Borrower or any Restricted Subsidiary) unless such transaction is (a) otherwise not prohibited under this Agreement and (b) upon fair and reasonable terms no less favorable to the Borrower or such Restricted Subsidiary, as the case may be, than it would obtain in a comparable arm's length transaction with a Person that is not an Affiliate. Notwithstanding the foregoing, the Borrower and its Restricted Subsidiaries may (i) enter into any transaction with an Affiliate that is not prohibited by the terms of this Agreement to be entered into by the Borrower or such Restricted Subsidiary with an Affiliate; (ii) make any Restricted Payment permitted pursuant to Section 7.6; (iii) perform their obligations under the Closing Date Acquisition Documents and the Loan Documents; and (iv) without being subject to the terms of this Section 7.9, enter into any transaction with any Person which is an Affiliate of the Borrower only by reason of such Person and the Borrower having common directors. For the avoidance of doubt, this Section 7.9 shall not apply to employment, benefits, compensation, bonus, retention and severance arrangements with, and payments of compensation or benefits to or for the benefit of, current or former employees, consultants, officers or directors of the Borrower or any of its Restricted Subsidiaries in the ordinary course of business. For purposes of this Section 7.9, any transaction with any Affiliate shall be deemed to have satisfied the standard set forth in clause (b) of the first sentence hereof if such transaction is approved by a majority of the Disinterested Directors of the Board of Directors of the Borrower or such Restricted Subsidiary, as applicable. "**Disinterested Director**" shall mean, with respect to any Person and transaction, a member of the Board of Directors of such Person who does not have any material direct or indirect financial interest in or with respect to such transaction. A member of any such Board of Directors shall not be deemed to have such a financial interest by reason of such member's holding Capital Stock of the Borrower or any options, warrants or other rights in respect of such Capital Stock.

7.10 Anti-Corruption Laws; Sanctions. The Borrower, its Subsidiaries and their respective officers and employees shall not use the proceeds of the Loans, and the Borrower and its Subsidiaries shall use commercially reasonable efforts to ensure that their respective directors and agents shall not use the proceeds of the Loans, directly or indirectly, (i) for the purpose of funding, financing or facilitating any activities, business or transaction of or with any Person, or in any country or territory, that, at the time of such funding or financing, is, or whose government is, the subject of Sanctions, except as otherwise permitted by applicable law, regulation or license, (ii) in any manner that would result in a violation of Sanctions applicable to any party hereto or (iii) in any manner that would result in a violation of the United