

clause (f) below, shall not exceed \$5,000,000 (or such greater amount as the Administrative Agent may agree in its sole discretion) 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), (e), (i) and (j) 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, except by an amount equal to a reasonable premium and other fees and expenses reasonably incurred in connection therewith, (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 nor any Subsidiary, in each case 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 maturity of such Original Indebtedness and (v) if such Original Indebtedness was subordinated in right of payment to the Obligations or any of the other Secured Obligations, then the terms and conditions of such Refinance Indebtedness must include subordination terms and conditions that are at least as favorable to the Administrative Agent and the Lenders 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 letters of credit, banker’s acceptances, bank guarantees, performance bonds, bid bonds, appeal bonds, surety bonds and similar obligations, in each case provided in the ordinary course of business;

(i) unsecured Subordinated Indebtedness on terms and conditions (including with respect to any cash payments) acceptable to the Administrative Agent in its sole discretion;

(j) Indebtedness of any Person that becomes a Subsidiary after the date hereof; provided that (i) such Indebtedness exists at the time such Person becomes a Subsidiary and is not created in contemplation of or in connection with such Person becoming a Subsidiary and (ii) the aggregate principal amount of Indebtedness permitted by this clause (j), together with any Refinance Indebtedness in respect thereof permitted by clause (f) above, shall not exceed \$2,500,000 at any time outstanding;

(k) obligations (contingent or otherwise) of the Borrower and its Subsidiaries existing or arising under any Swap Agreement permitted by Section 6.07;

(l) unsecured Indebtedness to trade creditors in the ordinary course of business and not past due;

(m) unsecured Indebtedness incurred as a result of endorsing negotiable instruments received in the ordinary course of business;

(n) Indebtedness consisting of the financing of insurance premiums;

(o) Indebtedness of Foreign Subsidiaries (i) in respect of business credit cards in an aggregate principal amount not to exceed \$2,500,000 at any time outstanding; and (ii) otherwise in an aggregate principal amount not to exceed \$5,000,000 at any time outstanding;

(p) unsecured Indebtedness in the form of purchase price adjustments, earn outs, deferred compensation, or other arrangements representing Acquisition consideration or deferred payments of a similar nature incurred in connection with Investments permitted by Section 6.04; and

(q) other Indebtedness in an aggregate principal amount not exceeding \$5,000,000 at any time outstanding.

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, except:

(a) Liens created pursuant to any Loan Document;

(b) Permitted Encumbrances;

(c) any Lien on any property or asset of the 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 the Borrower or any 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 the Borrower or any Subsidiary; provided that (i) such Liens secure Indebtedness permitted by Section 6.01(e), (ii) such Liens 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 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 the Borrower or any Subsidiary;

(e) any Lien existing on any property or asset prior to the acquisition thereof by (including any merger into or consolidation with) the Borrower or any Subsidiary or existing on any property or asset 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 any Loan Party or Subsidiary, (iii) such Lien shall only secure Indebtedness or obligations permitted pursuant to Section 6.01(j) and (iv) 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) bankers' Liens, rights of setoff and other similar Liens existing solely with respect to cash, Permitted Investments, securities, commodities and other funds on deposit in one or more accounts maintained by a Group Member, in each case arising in the ordinary course of business in favor of banks, other depository institutions, securities or commodities intermediaries or brokerages with which such accounts are maintained securing amounts owing to such banks or financial institutions with respect to cash management and operating account management or are arising under Section 4-208 or 4-210 of the UCC on items in the course of collection;

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

(h) (x) any interest or title of a lessor or licensor under any lease or license entered into by the Borrower or any Subsidiary in the ordinary course of its business and covering only the assets so leased or licensed, (y) leases, licenses, subleases and sublicenses of real property granted to others in the ordinary course of business and (z) non-exclusive licenses of Intellectual Property in the ordinary course of business and other licenses and sublicenses that could not result in a legal transfer of title of the licensed property but that may be exclusive in respects other than territory and that may be exclusive as to territory only as to discreet geographical areas outside of the United States, in each case in the ordinary course of business;

(i) the replacement, extension or renewal of any Lien permitted by clause (e) above upon or in the same property theretofore subject thereto or the replacement, extension or renewal (without increase in the amount or change in any direct or contingent obligor) of the Indebtedness secured thereby;

(j) (i) cash deposits and liens on cash and Permitted Investments pledged to secure Indebtedness permitted under Section 6.01(h), (ii) Liens on cash and Permitted Investments securing reimbursement obligations with respect to letters of credit, banker's acceptances, bank guarantees permitted by Section 6.01(h) that encumber documents and other property relating to such letters of credit, (iii) Liens on cash and Permitted Investments securing Obligations under any Swap Agreements permitted by Section 6.01(k), and (iv) Liens on cash deposits securing minimum capitalization requirements;

(k) Liens on any earnest money deposits required in connection with a Permitted Acquisition or consisting of earnest money deposits required in connection with an acquisition of property expressly permitted hereunder;

(l) Liens that are contractual rights of setoff relating to purchase orders and other agreements entered into with customers of such Person in the ordinary course of business;

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

(n) Liens on insurance proceeds in favor of insurance companies granted solely to secured financed insurance premiums;

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

(p) other Liens securing obligations in an outstanding amount not to exceed \$5,000,000 at any one time;

provided that, no such Lien (other than Liens arising by operation of law, Permitted Encumbrances and Liens permitted pursuant to clause (h) above) shall encumber any Material Intellectual Property or real property owned by any Loan Party or Subsidiary.

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, or otherwise Dispose of all or substantially all of its assets, or all or substantially all of the Equity Interests of any of its Subsidiaries (in each case, whether now owned or hereafter acquired), or liquidate or dissolve, except that, (i) any Subsidiary of the Borrower may merge into the Borrower in a transaction in which the Borrower is the surviving entity, (ii) any Loan Party (other than the Borrower) may merge into any other Loan Party in a transaction in which the surviving entity is a Loan Party; (iii) any Subsidiary that is a limited liability company may consummate a division as the dividing Person if, immediately upon the consummation of the division, all of the assets of the applicable dividing Person are held by one or more Loan Parties, and (iv) any Subsidiary that is not a Loan Party may liquidate or dissolve if the Borrower determines in good faith that such liquidation or dissolution is in the best interests of the Borrower and is not materially disadvantageous to the Lenders (as reasonably determined by the Administrative Agent); provided that any such merger or consolidation involving a Person that is not a wholly-owned Subsidiary immediately prior to such merger or consolidation 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 Borrower and its Subsidiaries on the date hereof and businesses reasonably related thereto.

(c) The Borrower will not change its fiscal year or any fiscal quarter from the basis in effect on the Effective Date, and no other 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 except, with prior written notice to the Administrative Agent, to align with the fiscal year and fiscal quarters of the Borrower.

(d) The Borrower will not change the accounting basis upon which its financial statements are prepared, and no Loan Party will change the accounting basis upon which its financial statements are prepared except, with prior written notice to the Administrative Agent, to align with the accounting basis of the Borrower.

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 or consolidation with any Person that was not a Loan Party and a wholly-owned Subsidiary prior to such merger or consolidation) 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 Person or any assets of any other Person constituting a business unit (whether through purchase of assets, merger or otherwise), except:

(a) cash and Permitted Investments, plus any investments in an amount not to exceed \$5,000,000 in the aggregate, which would otherwise constitute Permitted Investments under clause (c) of the definition thereof but-for the requirement that any such investment be issued, guaranteed or offered by, or placed with a 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;

(b) investments in existence on the date hereof and described in Schedule 6.04;

(c) investments made by the Borrower and the Subsidiaries in Equity Interests in their respective Subsidiaries, provided that (i) any such Equity Interests held by a Loan Party (other than Excluded Assets) shall be pledged pursuant to the Security Agreement, (ii) the aggregate outstanding amount of investments by Loan Parties in Subsidiaries that are not Loan Parties (together with outstanding intercompany loans permitted under clause (ii) of the proviso to Section 6.04(d) and outstanding principal amount of Indebtedness subject to Guarantees permitted under the proviso to Section 6.04(e)) shall not exceed \$15,000,000 (or such greater amount as agreed by the Administrative Agent in its sole discretion) in any fiscal year of the Borrower (in each case determined without regard to any write-downs or write-offs) and (iii) no Event of Default exists and is continuing if such investment is by a Loan Party in a Subsidiary that is not a Loan Party;

(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, (ii) the outstanding amount of such loans and advances made by Loan Parties to Subsidiaries that are not Loan Parties (together with outstanding investments permitted under clause (ii) of the proviso to Section 6.04(c) and the outstanding principal amount of Indebtedness subject to Guarantees permitted under the proviso to Section 6.04(e)) shall not exceed \$15,000,000 (or such greater amount as agreed by the Administrative Agent in its sole discretion) in any fiscal year of the Borrower (in each case determined without regard to any write-downs or write-offs) and (iii) no Event of Default exists and is continuing if such investment is by a Loan Party in a Subsidiary that is not a Loan Party;

(e) Guarantee Obligations permitted by Section 6.01 and Guarantee Obligations of obligations not constituting Indebtedness in the ordinary course of business; provided that (i) the aggregate outstanding 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) of the proviso to Section 6.04(c) and outstanding intercompany loans permitted under clause (ii) of the proviso to Section 6.04(d)) shall not exceed \$15,000,000 (or such greater amount as agreed by the Administrative Agent in its sole discretion) in any fiscal year of the Borrower (in each case determined without regard to any write-downs or write-offs) and (ii) no Event of Default exists and is continuing if such investment is by a Loan Party in a Subsidiary that is not a Loan Party;

(f) investments consisting of (i) travel advances and employee relocation loans and other employee loans and advances in the ordinary course of business, and (ii) non-cash loans to employees, officers or directors relating to the purchase of equity securities of the Borrower and its Subsidiaries pursuant to employee stock purchase plans or agreements approved by the Borrower's board of directors;

(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 the Borrower or consolidates or merges with the Borrower or any 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) Permitted Acquisitions;

(m) investments received in settlement of amounts due to any Loan Party or Subsidiary effected in the ordinary course of business or owing to such Loan Party or Subsidiary as a result of insolvency proceedings involving an Account Debtor or upon the foreclosure or enforcement of any Lien in favor of such Loan Party or Subsidiary;

(n) the licensing or contribution of intellectual property pursuant to joint marketing or joint venture arrangements with other Persons in the ordinary course of business;

(o) deposits made to secure the performance of leases, licenses or contracts in the ordinary course of business and other deposits made in connection with the insurance of Liens permitted by Section 6.02;

(p) promissory notes and other non-cash consideration received in connection with Dispositions permitted by Section 6.05, to the extent not exceeding the limits specified therein with respect to the receipt of non-cash consideration in connection with such Dispositions;

(q) investments in the ordinary course of business consisting of endorsements of negotiable instruments for collection or deposit;

(r) extensions of trade credit to customers in the ordinary course of business consistent with past practice;

(s) so long as no Event of Default exists immediately after giving effect to such investment, in addition to investments otherwise expressly permitted by this Section 6.04, any investments in an aggregate amount not to exceed \$5,000,000 in any fiscal year of the Borrower;

(t) so long as no Event of Default exists immediately after giving effect to such investment, investments in joint ventures, corporate collaborations, or strategic alliances; provided that, the aggregate amount of all such investments made in cash shall not exceed, together with investments permitted by Section 6.04(u), \$15,000,000 in any fiscal year of the Borrower;

(u) so long as no Event of Default exists immediately after giving effect to such investment, minority equity investments in companies in a similar line of business with non-U.S. operations in amounts not to exceed, together with Investments permitted by Section 6.04(t), \$15,000,000 in any fiscal year of the Borrower; and

(v) the formation and/or capitalization of a new Subsidiary so long as such Loan Party and Subsidiary comply with Section 5.13, and so long as any such capitalization is otherwise permitted by this Section 6.04.

SECTION 6.05. Asset Sales. No Loan Party will, nor will it permit any Subsidiary to, Dispose of any asset, including any Equity Interest owned by it, nor will the Borrower permit any Subsidiary to issue any additional Equity Interest in such Subsidiary (other than to the Borrower or another Subsidiary in compliance with Section 6.04), except:

(a) 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) Dispositions of assets to the Borrower or any Subsidiary; provided that (i) any such Dispositions involving a Subsidiary that is not a Loan Party shall be made in compliance with Section 6.09 and (ii) the aggregate fair market value of all assets Disposed by Loan Parties to Subsidiaries that are not Loan Parties during the term of this Agreement shall not exceed \$5,000,000;

(c) Dispositions of Accounts (excluding Dispositions in a factoring arrangement) in connection with the compromise, settlement or collection thereof;

(d) Dispositions of cash, Permitted Investments and other investments permitted by clauses (i) and (k) of Section 6.04 to the extent not otherwise prohibited by the terms of this Agreement or the other Loan Documents;

(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 the Borrower or any Subsidiary;

(g) transactions permitted by Section 6.03(a);

(h) so long as at the time of making such Disposition no Event of Default then exists or would result therefrom, 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 Disposed of in reliance upon this paragraph (h) shall not exceed \$1,000,000 during any fiscal year of the Borrower;

(i) the sale or issuance of the Equity Interests of a Subsidiary (i) to the Borrower or any other Loan Party, (ii) by a Subsidiary that is not a Loan Party to another Subsidiary that is not a Loan Party or (iii) in connection with any transaction that does not result in a Change in Control;

(j) the non-exclusive licensing of patents, trademarks, copyrights, and other intellectual property rights in the ordinary course of business;

(k) leases or subleases of real property in the ordinary course of business;

(l) to the extent constituting a Disposition, Restricted Payments permitted by Section 6.08, Investments permitted by Section 6.04 and Liens permitted by Section 6.02;

(m) the sale or discount without recourse of accounts receivable arising in the ordinary course of business in connection with the compromise or collection thereof; and

(n) any abandonment, cancellation, non-renewal or discontinuance of use or maintenance of intellectual property (or rights relating thereto) of any Loan Party or Subsidiary that the Borrower determines in good faith is desirable in the conduct of its business and not materially disadvantageous to the interests of the Lenders;

provided that all Dispositions permitted under clauses (a), (e), and (h) 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 the 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 the 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 the Borrower or any Subsidiary has actual exposure (other than those in respect of Equity Interests of the 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 the 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) the Borrower may declare and pay dividends with respect to its Equity Interests payable solely in additional shares of its Equity Interests (other than Disqualified Stock);

(ii) Subsidiaries may declare and pay dividends ratably with respect to their Equity Interests;

(iii) each Loan Party and Subsidiary may make Restricted Payments to any Loan Party;

(iv) so long as at the time of making such Restricted Payment no Event of Default then exists or would result therefrom, the Borrower may make Restricted Payments, not exceeding \$5,000,000 during any fiscal year to repurchase equity interest from present or former officers, directors or employees of any Loan Party or Subsidiary;

(v) each Loan Party may repurchase its Equity Interests and/or purchase Equity Interests from present or former officers, directors or employees, consultants, advisors, or other service providers of any Loan Party or Subsidiary (but excluding equity investment firms) (each a “Share Repurchase”) so long as immediately after giving effect to any such Share Repurchase, (i) the Total Net Leverage Ratio is less than 2.50 to 1.00, (ii), the aggregate amount of Liquidity is equal to or greater than \$50,000,000, (iii) the Borrower is (A) in pro forma compliance with the financial covenants in Section 6.12 as of the most recently ended fiscal quarter for which financial statements were required to be delivered, and (B) projected to be in compliance with the financial covenants in Section 6.12 for the twelve (12) month period thereafter, in each case based on financial statements and projections delivered to the Administrative Agent which give effect, on a pro forma basis, to such Share Repurchase and (iv) no Event of Default then exists or would result therefrom;