

**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549**

FORM 8-K

CURRENT REPORT

Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934

Date of Report (Date of earliest event reported): January 20, 2022

Live Ventures Incorporated

(Exact name of Registrant as Specified in Its Charter)

Nevada
(State or Other Jurisdiction
of Incorporation)

001-33937
(Commission File Number)

85-0206668
(IRS Employer
Identification No.)

325 E. Warm Springs Road, Suite 102
Las Vegas, Nevada
(Address of Principal Executive Offices)

89119
(Zip Code)

Registrant's Telephone Number, Including Area Code: (702) 997-5968

(Former Name or Former Address, if Changed Since Last Report)

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

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

Securities registered pursuant to Section 12(b) of the Act:

Title of each class	Trading Symbol(s)	Name of each exchange on which registered
Common Stock, \$0.001 par value per share	LIVE	The NASDAQ Stock Market LLC

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

Emerging growth company

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

Item 1.01 Entry into a Material Definitive Agreement.

Precision Industries, Inc. Refinancing Transaction

On January 20, 2022, Precision Industries, Inc., dba Precision Marshall (the “Borrower”), an indirect, wholly-owned subsidiary of the registrant, Live Ventures Incorporated (the “Company”), entered into a series of agreements (the “Agreements”) with Fifth Third Bank (the “Lender”) to refinance its existing credit facility with Eclipse Business Capital, LLC, formerly known as Encina Business Credit, LLC (the “Prior Lender”). The refinanced credit facility, totaling \$29 million, is comprised of \$23.0 million in revolving credit, \$3.5 million in machinery and equipment (“M&E”) lending, and \$2.5 million for capital expenditure (“Capex”) lending. Proceeds will be used to refinance existing debt, with the remainder for working capital, M&E, and Capex purposes.

Advances under the new credit facility will bear interest at the 30-day Secured Overnight Financing Rate (“SOFR”) plus 200 basis points for lending under the revolving facility, and 30-day SOFR plus 225 basis points for M&E and Capex lending (Effective December 31, 2021, SOFR replaced the USD London Interbank-Offered Rate (“LIBOR”) for most financial benchmarking). The refinancing of the Borrower’s existing credit facility reduces interest costs and improves the availability and liquidity of funds by approximately \$3.0 million at the close.

The facility terminates on January 20, 2027, unless terminated earlier in accordance with its terms. During the term of the Agreements, if the Borrower prepays all of its obligations and terminates the Lender’s commitment to make loans, or the obligations are accelerated as described in the Agreements, the Borrower must pay all of its other obligations as well as a termination fee to Lender. The termination fee is an amount equal to 2% of the Facility Amount if the termination occurs on or before January 20, 2023 or 1% of the Facility Amount if the termination occurs between January 21, 2023 and January 20, 2024.

Advances under the new credit facility are secured by a pledge of substantially all of the assets of the Borrower. Precision Affiliated Holdings LLC, a direct, wholly-owned subsidiary of the Company and corporate parent of the Borrower, is a guarantor of the facility. The Company is not a guarantor of the facility.

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

The information set forth in Item 1.01 above is incorporated by reference into this item 2.03.

Forward-Looking Statements

This Current Report on Form 8-K hereto contain “forward-looking statements”, including statements regarding the proposed offering. Forward-looking statements can generally be identified by the use of words such as “anticipate,” “believe,” “continue,” “could,” “estimate,” “expect,” “forecast,” “intend,” “may,” “plan,” “project,” “potential,” “seek,” “should,” “think,” “will,” “would” and similar expressions, or they may use future dates. Forward-looking statements in this document include, without limitation, statements regarding the Company’s expectations as to the completion, timing and size of the proposed private offering, the anticipated use of proceeds therefrom. These forward-looking statements are subject to assumptions, risks and uncertainties that may change at any time, and readers are therefore cautioned that actual results could differ materially from those expressed in any forward-looking statements. Factors that could cause actual results to differ include, among other things: risks and uncertainties associated with market conditions and the satisfaction of customary closing conditions related to the proposed offering; and other risks and uncertainties discussed in the Company’s filings with the SEC, including the “Risk Factors” sections of the Company’s Annual Report on Form 10-K for the year ended September 30, 2021. The Company undertakes no obligation to update any forward-looking statements as a result of new information, future developments or otherwise, except as expressly required by law. All forward-looking statements in this document are qualified in their entirety by this cautionary statement.

Item 9.01 Financial Statements and Exhibits.

(d) Exhibits

Exhibit Number	Description
10.92	<u>Credit and Security Agreement, dated as of January 20, 2022, between Fifth Third Bank, National Association, and Precision Industries, Inc.</u>
10.93	<u>Trademark Security Agreement, dated as of January 20, 2022, by and between Precision Industries, Inc., and Fifth Third Bank, National Association</u>
10.94	<u>Guaranty, dated as of January 20, 2022, by Precision Affiliated Holdings LLC for the benefit of Fifth Third Bank, National Association</u>
10.95	<u>Guarantor Security Agreement, dated as of January 20, 2022, by and between Precision Affiliated Holdings LLC, and Fifth Third Bank, National Association</u>
10.96	<u>Stock Pledge Agreement, made as of January 20, 2022, by Precision Affiliated Holdings LLC, to Fifth Third Bank, National Association</u>
104	Cover Page Interactive Data File (embedded within the Inline XBRL document)

SIGNATURES

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

LIVE VENTURES INCORPORATED

By: /s/ Jon Isaac

Name: Jon Isaac

Title: Chief Executive Officer

Dated: January 25, 2022

CREDIT AND SECURITY AGREEMENT

Dated as of January 20, 2022

Between

FIFTH THIRD BANK, NATIONAL ASSOCIATION,

Lender,

and

PRECISION INDUSTRIES, INC.,

Borrower

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Exhibits

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CREDIT AND SECURITY AGREEMENT

This Credit and Security Agreement (as amended, modified or supplemented from time to time, this “**Agreement**”) made as of January 20, 2022, between Fifth Third Bank, National Association (“**Lender**”), and Precision Industries, Inc., a Pennsylvania corporation (“**Borrower**”).

Borrower may, from time to time, request Loans from Lender, and the parties wish to provide for the terms and conditions upon which such Loans or other financial accommodations, if made by Lender, shall be made.

In consideration of any Loan (including any Loan by renewal or extension) hereafter made to Borrower by Lender, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by Borrower, the parties agree as follows:

1. DEFINITIONS

1.01 **Certain Defined Terms.** Except as otherwise expressly provided in this Agreement, the following terms shall have the meanings given them in this **Section 1.01**:

“**Account**”, “**Account Debtor**”, “**Chattel Paper**”, “**Commercial Tort Claims**”, “**Deposit Accounts**”, “**Documents**”, “**Electronic Chattel Paper**”, “**Equipment**”, “**Fixtures**”, “**General Intangibles**”, “**Goods**”, “**Instruments**”, “**Inventory**”, “**Investment Property**”, “**Letter-of-Credit Right**”, “**Proceeds**”, “**Security**”, “**Security Certificate**”, and “**Tangible Chattel Paper**” shall have the respective meanings assigned to such terms in the Uniform Commercial Code.

“**2020 Acquisition Holdback**” means the “**Indemnity Holdback Amount**” as set forth in that certain Agreement and Plan of Merger, dated as of July 14, 2020, by and among Live Ventures, President Merger Sub Inc., the Borrower and D Jackson Milhollan, in his capacity as the shareholders’ representative, as amended, restated supplemented or otherwise modified from time to time.

“**Acquisition**”, by any Person, means the acquisition by such Person, in a single transaction or in a series of related transactions, of either (a) all or substantially all of the property of, or a line of business, division of or other business unit of, another Person or (b) at least a majority voting power of all outstanding Equity Interests of such Person, in each case whether or not involving a merger or consolidation with such other Person.

“**Affiliate**” means any Person (a) which directly or indirectly through one or more intermediaries controls, is controlled by, or is under common control with, Borrower, (b) which beneficially owns or holds 10% or more of the voting control or Equity Interests of Borrower, or (c) 10% or more of the voting control or Equity Interests of which is beneficially owned or held by Borrower.

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

or corruption, including the United States Foreign Corrupt Practices Act of 1977 and the rules and regulations thereunder and the U.K. Bribery Act 2010 and the rules and regulations thereunder.

“**Anti-Money Laundering Laws**” means any and all laws, statutes, regulations or obligatory government orders, decrees, ordinances or rules applicable to a Loan Party, its Subsidiaries or Affiliates related to terrorism financing or money laundering, including any applicable provision of the Patriot Act and The Currency and Foreign Transactions Reporting Act (also known as the “Bank Secrecy Act,” 31 U.S.C. §§ 5311-5330 and 12 U.S.C. §§ 1818(s), 1820(b) and 1951-1959).

“**Anti-Terrorism Laws**” has the meaning set forth in **Section 9.22(c)**.

“**Applicable Margin**” means, at any time, the applicable percentage per annum (expressed in basis points) set forth on Schedule 1.01-A.

“**Availability**” means, at any time, the amount, if any, by which the Borrowing Base exceeds the sum of (a) the outstanding principal balance of the Revolving Loans; plus (b) the Letter of Credit Obligations.

“**Availability Reserve**” means, as of any date of determination, one or more amounts or a percent of a specified category or item that Lender, in its Permitted Discretion, establishes from time to time to reduce availability under the Borrowing Base (a) to reflect events, conditions, contingencies or risks which affect the assets, business or prospects of Borrower, or the Collateral or its value, or the enforceability, perfection or priority of Lender’s Lien in the Collateral, (b) to reflect Lender’s judgment that any collateral report or financial information relating to Borrower and furnished to Lender may be incomplete, inaccurate or misleading in any material respect, (c) in respect of any state of facts which does or would with notice or passage of time or both, constitute an Event of Default, (d) to reflect liability, contingent or otherwise, of Lender or any affiliate of Lender to any third party in connection with any Bank Product, (e) to reflect conditions, contingencies or risks in connection with Bank Products offered by Lender or any Affiliate of Lender to Borrower, (f) for rent at locations leased by Borrower and for storage, processing, and other charges of third-parties in possession of Collateral, (g) for payroll, taxes, fees, assessments, and other governmental charges with respect to the Collateral or Borrower, (h) for holding insurance or sale proceeds for application under Section 2.07(f), and (i) if applicable, a reserve of \$3,000 (or such other amount determined by Lender) for each employee of Borrower or any Subsidiary located in the State of Wisconsin to cover potential wage and benefit obligations under the Wisconsin Wage Payment and Collection Law (and any successor).

“**Bank Product Agreement**” means any agreement, instrument or document executed and delivered by Borrower to Lender or any affiliate of Lender in connection with any Bank Product.

“**Bank Products**” means any service or facility extended to Borrower by Lender or any affiliate of Lender, or procured for Borrower from any third party by Lender or any affiliate of Lender by means of a full-recourse agreement or other credit support extended to such third party including: (a) credit cards, (b) credit card processing services, (c) debit cards, (d) purchase cards, (e) ACH transactions, (f) cash management, including controlled disbursement, accounts or services, (g) letters of credit, or (h) Hedging Agreements.

“**Beneficial Ownership Certification**” means a certification regarding beneficial ownership as required by the Beneficial Ownership Regulation.

“**Beneficial Ownership Regulation**” means 31 CFR § 1010.230.

“**Blocked Account**” means an account established by Borrower in Lender’s name maintained with Lender or with another financial institution acceptable to Lender.

“**Borrowing Base**” means, at any time, the lesser of:

(a) The Maximum Revolving Loan Limit; or

(b) The sum of:

(i) 85.0% of Borrower’s Eligible Accounts; plus

(ii) the lesser of (A) 85.0% of the Net Orderly Liquidation Value of Borrower’s Eligible Inventory, or (B) \$16,000,000; minus

(iii) the Hedging Obligation Reserve; minus

(iv) the Availability Reserve.

“**Borrowing Base Certificate**” means a certificate, in substantially the form attached hereto as **Exhibit B** (as may be modified from time to time by Lender in its Permitted Discretion) setting forth the Borrowing Base and the component calculations thereof.

“**Business Day**” means (a) with respect to all notices and determinations, including payment dates, in connection with the Tranche Rate, any day that commercial banks in New York, New York are required by law to be open for business and that is a U.S. Government Securities Business Day, which means any day other than a Saturday, Sunday, or day on which the Securities Industry and Financial Markets Association recommends that the fixed income departments of its members be closed for the entire day for purposes of trading in United States government securities and (b) in all other cases, any day on which commercial banks in New York, NY or Cincinnati, Ohio are required by Law to be open for business; *provided* that, notwithstanding anything to the contrary in this definition of “Business Day”, at any time during which a Hedging Agreement with the Lender is then in effect with respect to all or a portion of the Obligations, then the definitions of “Business Day” and “Banking Day”, as applicable, pursuant to such Hedging Agreement shall govern with respect to all applicable notices and determinations in connection with such portion of the Obligations arising under such Hedging Agreement. Periods of days referred to in the Loan Documents will be counted in calendar days unless Business Days are expressly prescribed.

“**Capital Expenditure Loans**” has the meaning specified in **Section 2.05**.

“**Capital Expenditures**” means with respect to any period, the aggregate of all expenditures (whether paid in cash or accrued as liabilities and including expenditures for capitalized lease obligations) by Borrower and its Subsidiaries during such period that are required

by GAAP, to be included in or reflected by the property, plant and equipment or similar fixed asset accounts on the balance sheet of Borrower and its Subsidiaries.

“**Change in Law**” means the occurrence, after the Closing Date, of any of the following: (a) the adoption or taking effect of any law, rule, regulation or treaty, (b) any change in any law, rule, regulation or treaty or in the administration, interpretation, implementation or application thereof by any Governmental Authority or (c) the making or issuance of any request, rule, guideline or directive (whether or not having the force of law) by any Governmental Authority or the compliance therewith by the Lender or its applicable lending office or such Lender’s holding company, if any); provided that notwithstanding anything herein to the contrary, (i) the Dodd Frank Wall Street Reform and Consumer Protection Act and all requests, rules, guidelines and directives thereunder or issued in connection therewith and (ii) all requests, rules, guidelines and directives promulgated by the Bank for International Settlements, the Basel Committee on Banking Supervision (or any successor or similar authority) or the United States or foreign regulatory authorities, in each case pursuant to Basel III, shall in each case be deemed to be a “Change in Law”, regardless of the date enacted, adopted or issued.

“**Change of Control**” means the occurrence of any of the following events:

- (a) Holdings ceases to own or control 100% of the Equity Interests of Borrower;
- (b) The Owners of Holdings as of the Closing Date own less than 80% of the outstanding Equity Interests of Holdings at any time;
- (c) Tom Sedlak shall cease to actively manage Borrower’s day-to-day business activities and a replacement officer is not retained by Borrower within 180 days of such cessation with the consent of the Lender (not to be unreasonably withheld, conditioned or delayed); or
- (d) Jon Isaac becomes an officer or director of any Loan Party at any time during the term of this Agreement.

“**Closing Date**” means the date of this Agreement.

“**Code**” means the Internal Revenue Code of 1986, as amended, and the rules and regulations thereunder, all as in effect from time to time.

“**Collateral**” means all of the property of Borrower described in **Section 5**, together with all other real or personal property of any Loan Party or any other Person now or hereafter pledged to Lender to secure, either directly or indirectly, repayment of any of the Obligations.

“**Commodity Exchange Act**” means the Commodity Exchange Act (7 U.S.C. § 1 et seq.), as amended from time to time, and any successor statute.

“**Conforming Changes**” means, with respect to the use, administration of, or any conventions associated with the Tranche Rate or any proposed Successor Rate, as applicable, any changes to the terms of this Agreement related to the timing, frequency, and methodology of determining rates and making payments of interest, including changes to the definition of Business

Day, lookback periods or observation shift, prepayments, and borrowing, conversion, or continuation notices, and other technical, administrative, or operational matters, as may be appropriate, in the discretion of the Lender, to reflect the adoption and implementation of such applicable rate and to permit the administration thereof by the Lender in an operationally feasible manner and, to the extent feasible, consistent with market practice.

“**Controlled Group**” means a controlled group of corporations as defined in 26 U.S.C. § 1563.

“**Credit Extension**” means (a) a borrowing of a Loan or (b) the issuance of a Letter of Credit.

“**Daily Simple SOFR**” means, for any day, SOFR, with the conventions for this rate (which will include a lookback) being established by the Lender in accordance with the conventions for this rate recommended by the relevant Governmental Authority for determining “Daily Simple SOFR” for syndicated credit facilities; *provided*, that if the Lender decides that any such convention is not administratively feasible for the Lender, then the Lender may establish another convention in its reasonable discretion.

“**Default**” means any event or condition, the occurrence of which would, with the passage of time or the giving of notice, or both, constitute an Event of Default.

“**Default Period**” means the period of time commencing on the day an Event of Default occurs and continuing through the date the Event of Default has been cured or waived.

“**Default Rate**” means an interest rate up to 2% per annum in excess of the interest rate otherwise payable hereunder.

“**Dilution**” means, with respect to any period, the percentage obtained by dividing (a) the difference of (i) non-cash credits against Accounts (including, but not limited to returns, adjustments and rebates) of Borrower for such period, plus pending or probable, but not yet applied, non-cash credits against Accounts of Borrower for such period, as determined by Lender in its Permitted Discretion, minus (ii) markdowns, discounts, rebates, credits and other items reducing accounts receivable expensed for such period by Borrower and reported as “A/R Reserve, Markdowns/Returns” or otherwise reserved on Borrower’s balance sheet, by (b) gross invoiced sales of Borrower for such period.

“**Dilution Amount**” means the Dilution Percentage of the face amount (less maximum discounts, credits and allowances which may be taken by or granted to Account Debtors in connection therewith in the ordinary course of Borrower’s business) of Borrower’s Accounts.

“**Dilution Percentage**” means one percentage point for each whole or partial percentage point by which Dilution (as determined by Lender in good faith based on the results of the most recent 12 month period for which Lender has conducted a field audit of Borrower) exceeds 5%.

“**Disposition**” or “**Dispose**” means the sale, transfer, license, lease or other disposition (including any sale and leaseback transaction and any casualty or condemnation) of any property (including any Equity Interest), or part thereof, by any Person, including any sale, assignment,

transfer or other disposal, with or without recourse, of any notes or accounts receivable or any rights and claims associated therewith.

“**Disqualified Equity Interests**” means any Equity Interests that, by their terms (or by the terms of any security or other Equity Interest into which they are convertible or for which they are exchangeable) or upon the happening of any event or condition, (a) mature or are mandatorily redeemable (other than solely for Equity Interests that are not Disqualified Equity Interests), pursuant to a sinking fund obligation or otherwise (except as a result of a change of control or asset sale so long as any rights of the holders thereof upon the occurrence of a change of control or asset sale event shall be subject to the prior repayment in full of the Obligations), (b) are redeemable at the option of the holder thereof (other than solely for Equity Interests that are not Disqualified Equity Interests) (except as a result of a change of control or asset sale so long as any rights of the holders thereof upon the occurrence of a change of control or asset sale event shall be subject to the prior repayment in full of the Obligations), in whole or in part, (c) provide for the scheduled payment of dividends in cash or (d) are or become convertible into or exchangeable for Indebtedness or any other Equity Interests that would constitute Disqualified Equity Interests, in each case, prior to the date that is 180 days after the Maturity Date.

“**EBITDA**” means, for any period, the sum of Borrower’s and its Subsidiaries’ (without duplication):

(a) net income after taxes for such period (excluding extraordinary gains or losses as approved by Lender);

(b) plus, to the extent subtracted in calculating net income after taxes for such period (i) Interest Expense for such period; (ii) income tax expense for such period; (iii) depreciation and amortization for such period; (iv) any extraordinary non-cash losses for such period, (v) any extraordinary cash losses for such period in an aggregate amount for any four (4) fiscal quarter period not to exceed, when combined with the amount added back pursuant to clause (xii) for such period, the Overall Cap, and otherwise to the extent approved by Lender in its sole discretion, (vi) fees, costs, expenses and indemnities arising under the Management Agreement, (vii) one-time, non-recurring reasonable and documented transaction expenses and closing fees (including fees and expenses of legal counsel) related to the transactions hereby, in an aggregate amount not to exceed \$510,500 provided such expenses are incurred not later than 45 days after the Closing Date, (viii) fees, costs, expenses, indemnities and any reimbursements in connection with any amendments to the Loan Documents and supplements thereto, including, without limitation, reasonable attorneys’ fees and costs, appraisal fees, filing fees and title fees), in an aggregate amount not to exceed \$250,000 for any four (4) fiscal quarter period, (ix) reasonable and documented fees, costs, expenses and reimbursements incurred in connection with any Permitted Acquisition, whether or not consummated, including, without limitation, professional fees, earn-out and contingent consideration obligations and adjustments thereof and purchase price adjustments, provided, that the aggregate amount of such fees, costs and expenses in respect of all Permitted Acquisitions (whether or not consummated) shall not exceed \$200,000 for any single Permitted Acquisition or \$600,000 in the aggregate in respect of all Permitted Acquisitions during the term of this Agreement, (x) any proceeds actually received in respect of business interruption or similar insurance policies, (xi) losses realized in connection with any sale or disposition of any assets other than in the ordinary course of business or the disposition of any securities or the

extinguishment of any Indebtedness, in each case determined in accordance with GAAP, and (xii) one-time, non-recurring fees, charges, costs and expenses in respect of restructuring, severance, relocation, integration, facilities opening, business optimization, signing, retention or completion bonuses, recruiting, transition, closure/consolidation of facilities and curtailments or modifications to pension and post-retirement employee benefit plans (including any settlement of pension liabilities), including one-time expenses related to enhanced accounting function or other transaction costs in an aggregate amount not to exceed for any four (4) fiscal quarter period, when combined with the amounts added back pursuant to clause (v) for such period, the Overall Cap;

(c) minus to the extent included in calculating net income after taxes for such period (i) any extraordinary or non-cash gains which have been added in calculating net income after taxes for such period, and (ii) any gains realized in connection with any sale or disposition of any assets other than in the ordinary course of business or the disposition of any securities or the extinguishment of any Indebtedness, in each case determined in accordance with GAAP.

The "Overall Cap" shall mean, for any period, ten percent (10%) of EBITDA for such period (determined prior to giving effect to the applicable EBITDA addbacks set forth in clauses (b)(v) and (b)(xii) above).

For purposes of calculating EBITDA for any period in which any Loan Party shall have made a Permitted Acquisition, EBITDA for such period shall be calculated after giving pro forma effect thereto in form and substance satisfactory to Lender in its reasonable discretion for such period including pro-forma adjustments arising out of events which are directly attributable to such Permitted Acquisition, are factually supportable, and are expected to have a continuing impact.

"**Eligible Account**" means all Accounts owing to Borrower which are acceptable to Lender, in its Permitted Discretion, for lending purposes, net of any discounts, credits, or allowances and net of the Dilution Amount, but excluding any Account having any of the following characteristics:

- (a) Accounts which remain unpaid for more than 120 days after their invoice date or for more than 60 days after their due date;
- (b) Accounts owing by a single Account Debtor, including a currently scheduled Account, if 25% of the balance owing by said Account Debtor is ineligible as a result of clause (a) above;
- (c) Accounts which are not due and payable within 60 days after their invoice dates;
- (d) Accounts with respect to which the Account Debtor is a director, officer, employee or agent of Borrower or is a Parent, a Subsidiary or an Affiliate of Borrower;
- (e) Accounts with respect to which payment by the Account Debtor is or becomes conditional upon the Account Debtor's approval of the Goods or services, or is otherwise subject to any repurchase obligation or return right, as with sales made on a, guaranteed sale, sale on approval, sale or return or consignment basis;

(f) Accounts which are owed by an Account Debtor which (i) does not maintain its chief executive office in the United States of America or Canada, or (ii) is not organized under the laws of the United States of America, any State of the United States of America, or Canada unless, in either case, such Account is either backed by a letter of credit acceptable to Lender which is in the possession of, has been assigned to and is directly drawable by Lender, or insured pursuant to a credit insurance policy acceptable to Lender and such insurance has been assigned to Lender, provided amounts in excess of such letter of credit or insurance with respect to any Account Debtor shall not be included in Eligible Accounts;

(g) Accounts with respect to which the Account Debtor is (i) the United States of America or any department, agency or instrumentality thereof, unless Borrower assigns its right to payment of such Accounts to Lender in accordance with the Assignment of Claims Act of 1940, as amended, or (ii) any country other than the United States of America or any department, agency or instrumentality thereof;

(h) The face amount of any Accounts with respect to which Borrower is or may become liable to the Account Debtor for Goods sold or services rendered by such Account Debtor to Borrower, but only to the extent of the maximum aggregate amount of Borrower's liability to such Account Debtor;

(i) Accounts with respect to which (i) the Goods giving rise thereto have not been shipped and delivered to and accepted as satisfactory by the Account Debtor, or (ii) the services performed have not been completed and accepted as satisfactory by the Account Debtor;

(j) Accounts with respect to which possession or control of the Goods sold is held, maintained or retained by Borrower, or by any agent or custodian of Borrower, for the account of or subject to further or future direction from the Account Debtor as with sales made on a bill-and-hold basis (unless the Account Debtor has executed a setoff waiver in form and substance acceptable to Lender);

(k) Accounts which are owing by any Account Debtor involved as a debtor in any bankruptcy or other state or federal insolvency proceeding, whether voluntary or involuntary;

(l) Accounts which arise in any manner other than the sale of inventory or services in the ordinary course of Borrower's business;

(m) Accounts with respect to which the Account Debtor is located in a state which requires Borrower, as a precondition to commencing or maintaining an action in the courts of that state, either to (i) receive a certificate of authority to do business and be in good standing in such state, or (ii) file a notice of business activities report or similar report with such state's taxing authority, unless (A) Borrower has taken one of the actions described in clauses (i) or (ii), (B) the failure to take one of the actions described in either clause (i) or (ii) may be cured retroactively by Borrower at its election, or (C) Borrower has proven,

to Lender's satisfaction, that it is exempt from any such requirements under any such state's laws;

(n) Accounts with respect to which any of the representations and warranties contained in this Agreement relating to or specifically concerning Accounts are untrue in any material respect (for purposes of clarification, the materially qualifier in this clause (n) shall not be deemed to modify any representations and warranties with respect to any clause in the definition of Eligible Accounts other than this clause (n));

(o) Accounts which are not subject to a first priority lien in favor of Lender;

(p) Accounts for which the Account Debtor has paid a deposit to Borrower, but only to the extent of such deposit;

(q) Accounts for which Borrower has failed to deliver to Lender such documents as Lender may have requested pursuant to **Section 7.01**;

(r) Accounts which, when added to a particular Account Debtor's other indebtedness to Borrower, exceeds 20%, or the applicable limit set forth on Schedule 1.01-B, of all Accounts of Borrower (except that Accounts excluded from Eligible Accounts solely by reason of this clause (r) shall be Eligible Accounts to the extent of such credit limit);

(s) Accounts which are subject to markdowns, discounts, rebates, credits or other items reducing accounts receivable, but only to the extent of the amount accrued by Borrower for such markdowns, discounts, rebates, credits or other items reducing accounts receivable, as reported by Borrower as A/R Reserve, Markdowns>Returns or otherwise reserved on Borrower's balance sheet; and

(t) Accounts that remain open after the applicable Account Debtor has made a partial payment in respect of the applicable invoice.

"Eligible Inventory" means Inventory of Borrower which meets, and so long as it continues to meet, the following requirements:

(a) it is owned by Borrower, Borrower has the right to subject it to a security interest in favor of Lender and it is subject to a first priority perfected security interest in favor of Lender and to no other claim, lien, security interest or encumbrance whatsoever, other than Permitted Liens;

(b) it is located on one of the premises listed on Schedule 9.02 (or other locations of which Lender has been advised in writing pursuant to **Section 10.02(a)**), such locations are within the United States and is not in transit (other than between Borrower's United States facilities);

(c) if held for sale or lease or furnishing under contracts of service, it is (except as Lender may otherwise consent in writing) new and unused and free from defects which

would, in Lender's sole determination determined in its Permitted Discretion, materially and adversely, affect its market value;

(d) it is not stored with a bailee, consignee, warehouseman, processor or similar party unless Lender has given its prior written approval and Borrower has caused any such bailee, consignee, warehouseman, processor or similar party to issue and deliver to Lender, in form and substance acceptable to Lender, such Uniform Commercial Code financing statements, warehouse receipts, waivers and other documents as Lender shall require in its Permitted Discretion;

(e) it is not stored at a leased location unless Lender has received a landlord lien waiver, in form and substance acceptable to Lender, with respect to such location or an Availability Reserve has been established for such location in an amount determined by Lender in its Permitted Discretion (it being understood that the Availability Reserve for a leased location shall be an amount equal to three (3) months' rent and other monthly charges for such location plus all past due rent and other charges for such location);

(f) Lender has determined in good faith, in accordance with Lender's customary business practices, that it is not unacceptable due to age, type, category, quality, or quantity;

(g) it is not Slow-Moving Inventory, or obsolete Inventory;

(h) it is not Inventory manufactured or distributed by Borrower pursuant to a license unless the applicable licensor has executed a written agreement, in form and substance acceptable to Lender, permitting Lender to exercise Lender's rights and remedies against such inventory;

(i) it is not supplies, packaging, waste, or scrap; and

(j) it is not Inventory with respect to which any of the representations and warranties contained in this Agreement relating to or specifically concerning Inventory are untrue in any material respect (for purposes of clarification, the materially qualifier in this clause (j) shall not be deemed to modify any representations and warranties with respect to any clause in the definition of Eligible Inventory other than this clause (j)).

"Enforcement Costs" means all fees, costs and expenses described in **Section 4.05(e)** (Costs and Expenses) paid or incurred by or on behalf of Lender.

"Environmental Laws" means all federal, state, district, local and foreign laws, rules, regulations, ordinances, and consent decrees relating to health, safety, hazardous substances, pollution and environmental matters, as now or at any time hereafter in effect, applicable to Borrower's business or facilities owned or operated by Borrower, including laws relating to emissions, discharges, releases or threatened releases of pollutants, contamination, chemicals, or hazardous, toxic or dangerous substances, materials or wastes into the environment (including ambient air, surface water, ground water, land surface or subsurface strata) or otherwise relating to the generation, manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling of Hazardous Materials.

“Equity Interests” means, with respect to any Person, all of the shares of capital stock of (or other ownership or profit interests in) such Person, all of the warrants, options or other rights for the purchase or acquisition from such Person of shares of capital stock of (or other ownership or profit interests in) such Person, all of the securities convertible into or exchangeable for shares of capital stock of (or other ownership or profit interests in) such Person or warrants, rights or options for the purchase or acquisition from such Person of such shares (or such other interests), and all of the other ownership or profit interests in such Person (including partnership, member or trust interests therein), whether voting or nonvoting, and whether or not such shares, warrants, options, rights or other interests are outstanding on any date of determination.

“ERISA” means the Employee Retirement Income Security Act of 1974, as amended, modified or restated from time to time.

“ERISA Affiliate” means any Person who for purposes of Title IV of ERISA is a member of Borrower’s Controlled Group, or under common control with Borrower, within the meaning of Section 414 of the Code.

“Event of Default” has the meaning specified in **Section 13.01**.

“Excess Availability” means, as of any date of determination by Lender, the sum of (a) the Borrowing Base, minus (b) the outstanding Revolving Loans as of the close of business on such date. For purposes of calculating Excess Availability, all accounts payable which remain unpaid more than 30 days after the due dates thereof as of the Closing Date will be treated as additional Revolving Loans outstanding on such date.

“Excluded Account” means (a) trust accounts (to the extent of amounts held therein in trust in the ordinary course of business on behalf of third parties who are not Loan Parties or Affiliates of Loan Parties) and (b) payroll and payroll tax withholding accounts to the extent solely and exclusively used for payment of payroll (funded in the ordinary course of business to satisfy Borrower’s next scheduled payroll disbursements) and federal, state and local employee payroll withholding tax deposits and disbursements.

“Excluded Distribution” means the cash dividend or distribution by Borrower to its Owners made on or about January 13, 2022 in an amount not to exceed \$1,000,000.

“Excluded Property” means:

(a) any lease, license, contract or agreement to which any Loan Party is a party (including any such lease, license, contract or agreement in respect of Equipment that is subject to a Permitted Lien), and any of its rights or interests thereunder, if and to the extent that a security interest therein is prohibited by or in violation of (i) any applicable Law, or (ii) a term, provision or condition of any such lease, license, contract or agreement (unless in each case, such applicable Law, term, provision or condition would be rendered ineffective with respect to the creation of such security interest pursuant to Sections 9-406, 9-407, 9-408 or 9-409 of the Uniform Commercial Code (or any successor provision or provisions or any other applicable federal, state or local law) of any relevant jurisdiction or any other applicable Law), provided, however, that the foregoing shall cease to be treated as “Excluded Property” (and shall constitute Collateral) immediately at such time as the contractual or legal prohibition shall no longer be applicable and to the extent severable,

such security interest shall attach immediately to any portion of such lease, license, contract or agreement not subject to the prohibitions specified in clauses (i) or (ii) above, provided, further that Excluded Property shall not include any proceeds of any such lease, license, contract or agreement;

(b) any application to register trademarks in the U.S. Patent and Trademark Office (the “PTO”) based upon Grantor’s “intent to use” such trademark (but only if the grant of security interest to such “intent to use” trademark violates of 15 U.S.C. § 1060(a)) unless and until a “Statement of Use” or “Amendment to Allege Use” is filed in the PTO with respect thereto, at which point Collateral shall include, and the security interest granted hereunder shall attach to, such application; and

(c) any Excluded Account and the funds on deposit therein to the extent such funds are described in the definition of Excluded Account with respect to such account type;

provided, however, that Excluded Property shall not include any proceeds (or right to receive proceeds) of any of the assets described in the foregoing clauses (a) through (c) or any goodwill of the any Loan Parties’ business associated therewith or attributable thereto.

“**Excluded Swap Obligation**” means, with respect to any Loan Party, any Swap Obligation if, and to the extent that, all or a portion of the guarantee of such Loan Party of, or the grant by such Loan Party of a security interest to secure, such Swap Obligation (or any guarantee thereof) is or becomes illegal under the Commodity Exchange Act or any rule, regulation or order of the Commodity Futures Trading Commission (or the application or official interpretation of any thereof) by virtue of such Loan Party’s failure for any reason to constitute an “eligible contract participant” as defined in the Commodity Exchange Act at the time the guarantee of or grant of security interest by such Loan Party becomes effective with respect to such related Swap Obligation (such determination being made after giving effect to any applicable keepwell, support, or other agreement for the benefit of the applicable Loan Party).

“**Excluded Taxes**” means, with respect to Lender or any other recipient of any payment to be made by or on account of any obligation of Borrower or any Guarantor hereunder or under any other Loan Document, any taxes on or measured by overall net income (however denominated), franchise taxes (in lieu of net income taxes) and branch profits taxes, in each case imposed on it by the jurisdiction (or any political subdivision thereof) under the laws of which such recipient is organized or in which its principal office is located or, in the case of Lender, in which its applicable Lending Office is located.

“**Facility Amount**” means, as of any date of determination, the sum of (a) the Maximum Revolving Loan Limit, plus (b) the average outstanding principal balance of the Term Loans for the six-month period immediately prior to such date of determination.

“**Fiscal Year**” means each 12 month accounting period of Borrower, which ends on September 30th of each year.

“**Fixed Charge Coverage**” means, as of any date of determination, the ratio of: (a) Operating Cash Flow for such period, to (b) Fixed Charges for such period. Fixed Charge Coverage shall be calculated as follows: (i) for the test periods ending March 31, 2022 through

June 30, 2022, Fixed Charge Coverage shall be calculated on a cumulative basis for the period beginning October 1, 2021, and ending as of the last day of each such test period, and (ii) as of the test period ending September 30, 2022, and for each test period thereafter, Fixed Charge Coverage shall be tested on a trailing four (4) fiscal quarter basis.

“Fixed Charges” means, for any period, without duplication, the sum of: (a) paid or scheduled payments of principal during the applicable period with respect to all Indebtedness of Borrower (other than payments of Revolving Loans); plus (b) paid or scheduled payments of principal during the applicable period with respect to all capitalized lease obligations of Borrower; plus (c) Interest Expense but excluding non-cash PIK interest; plus (d) any pre-payments of Indebtedness (other than in respect of the Obligations); plus (e) any payments in cash in satisfaction of all or any portion of the Parent Intercompany Taxes Payable during the applicable period; provided that, “Fixed Charges” as used herein shall be calculated without giving pro forma effect to any Permitted Acquisition or other Investment permitted hereunder for historical periods other than historical Fixed Charges related to Indebtedness which is in place and not repaid or terminated in connection with such Permitted Acquisition or Investment. Notwithstanding the foregoing, so long as no Event of Default then exists and Borrower reports Availability of not less than \$3,000,000 both immediately before and immediately after the making of such payment, Fixed Charges shall not include the 2020 Acquisition Holdback in an amount not to exceed \$2,500,000; provided, that such Availability requirement shall not apply to the extent that the source of such payment is derived directly from the proceeds of the issuance of Qualified Equity Interests (excluding proceeds derived from any Curative Equity), received for the sole purpose of making such payment. Notwithstanding the foregoing, for each of the months from April 2021 through December 2021, Fixed Charges shall be as set forth on Schedule 12.01.

“Floor” has the meaning given to such term in the definition of “Tranche Rate”.

“GAAP” means generally accepted accounting principles in the United States set forth in the opinions and pronouncements of the Accounting Principles Board and the American Institute of Certified Public Accountants and statements and pronouncements of the Financial Accounting Standards Board or such other principles as may be approved by a significant segment of the accounting profession in the United States, that are applicable to the circumstances as of the date of determination, consistently applied.

“Governmental Authority” means the government of the United States or any other nation, or of any political subdivision thereof, whether state or local, and any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government (including any supra-national bodies such as the European Union or the European Central Bank).

“Guarantor” means Holdings and every other Person now or in the future who agrees to guaranty the Obligations.

“Hazardous Materials” means any hazardous, toxic or dangerous substance, materials and wastes, including hydrocarbons (including naturally occurring or man-made petroleum and hydrocarbons), flammable explosives, asbestos, urea formaldehyde insulation, radioactive

materials, biological substances, polychlorinated biphenyls, pesticides, herbicides and any other kind and/or type of pollutants or contaminants (including materials which include hazardous constituents), sewage, sludge, industrial slag, solvents and/or any other similar substances, materials, or wastes and including any other substances, materials or wastes that are or become regulated under any Environmental Law (including any that are or become classified as hazardous or toxic under any Environmental Law).

“Hedging Agreement” means any agreement, device or arrangement providing for payments which are related to fluctuations of interest rates, exchange rates, forward rates, commodities, or equity prices, including, without limitation, any transaction, device, agreement or arrangement (a) that is or is the functional equivalent of a rate swap transaction, swap option, basis swap, forward rate transaction, commodity swap, commodity option, equity or equity index swap, equity or equity index option, bond option, interest rate option, foreign exchange transaction, cap transaction, floor transaction, collar transaction, currency swap transaction, cross-currency rate swap transaction, currency option, credit protection transaction, credit swap, credit default swap, credit default option, total return swap, credit spread transaction, repurchase transaction, reverse repurchase transaction, buy/sell-back transaction, securities lending transaction, weather index transaction or forward purchase or sale of a security, commodity or other financial instrument or interest (including any option with respect to any of these transactions) or (b) which is a type of transaction that is similar to any transaction referred to in clause (a) above that is currently, or in the future becomes, recurrently entered into in the financial markets (including terms and conditions incorporated by reference in such agreement) and which is a forward, swap, future, option or other derivative on one or more rates, currencies, commodities, equity securities or other equity instruments, debt securities or other debt instruments, economic indices or measures of economic risk or value, or other benchmarks against which payments or deliveries are to be made, or any combination of these transactions, which transactions may be evidenced by an ISDA Master Agreement between Borrower and Lender or any affiliate of Fifth Third Bancorp, and any schedules, confirmations and documents and other confirming evidence between the parties confirming transactions thereunder, all whether now existing or hereafter arising, and in each case as amended, modified or supplemented from time to time.

“Hedging Obligation” means any and all obligations of a Loan Party to Lender or any affiliate of Fifth Third Bancorp, whether absolute, contingent or otherwise and howsoever and whensoever (whether now or hereafter) created, arising, evidenced or acquired (including all renewals, extensions and modifications thereof and substitutions therefore), under or in connection with (a) any and all Hedging Agreements, and (b) any and all cancellations, buy backs, reversals, terminations or assignments of any Hedging Agreement.

“Hedging Obligation Reserve” means, as of any date of determination, such amounts as the Lender may from time to time establish and adjust to reduce availability under the Borrowing Base to reflect Borrower’s Hedging Obligations.

“Holdings” means Precision Affiliated Holdings LLC, a Delaware limited liability company.

“Indebtedness” of a Person means at any time the sum at such time of: (a) indebtedness of such Person for borrowed money or for the deferred purchase price of property or services; (b)

any obligations of such Person in respect of letters of credit, banker's or other acceptances or similar obligations issued or created for the account of such Person; (c) lease indebtedness, liabilities and other obligations of such Person with respect to capital leases; (d) obligations of third parties which are being guaranteed or indemnified against by such Person or which are secured by the property of such Person; (e) [reserved]; (f) [reserved]; (g) earn-out obligations, seller notes and similar payment obligations, including earn-out obligations or deferred payments in connection with any Acquisition, but not including any working capital adjustments or purchase price adjustments arising in connection with an Acquisition, in each case solely to the extent earned, due and payable (excluding, to the extent constituting Indebtedness, the 2020 Acquisition Holdback); (h) any obligations, liabilities or indebtedness, contingent or otherwise, under or in connection with, transactions, agreements or documents now existing or hereafter entered into, which provides for an interest rate, credit, commodity or equity swap, cap, floor, collar, forward foreign exchange transaction, currency swap, cross currency rate swap, currency option, or any combination of, or option with respect to, these or similar transactions, for the purpose of hedging fluctuations in interest or exchange rates, loan, credit exchange, security or currency valuations or commodity prices; but excluding trade and other accounts payable in the ordinary course of business in accordance with customary trade terms and which are not more than ninety (90) days overdue (as determined in accordance with customary trade practices) or which are being disputed in good faith by such Person and for which adequate reserves are being provided on the books of such Person in accordance with GAAP consistently applied; (i) all obligations of any such Person in respect of Disqualified Equity Interests; and (j) any other obligation for borrowed money or other financial accommodation which, in accordance with GAAP, would be shown as a liability on the balance sheet of such Person.

"Indemnified Party" has the meaning specified in **Section 15.01**.

"Indemnified Taxes" means Taxes other than Excluded Taxes.

"Intellectual Property" has the meaning specified in **Section 9.19**.

"Interest Expense" means, for any period, for Borrower and its Subsidiaries, the sum of (a) all interest, premium payments, debt discount, fees, charges and related expenses (excluding closing costs associated with this transaction) in connection with borrowed money (including capitalized interest) or in connection with the deferred purchase price of assets during such period, plus (b) all payments made under interest rate Hedging Agreements during such period to the extent not included in clause (a) of this definition, minus (c) all payments received under interest rate Hedging Agreements during such period, plus (d) the portion of rent expense with respect to such period under capital leases that is treated as interest in accordance with GAAP.

"Interest Period" means, with respect to any Tranche Rate Loan, any continuous period of one month as selected from time to time by Borrower by irrevocable notice (in writing, by telecopy, telex, electronic mail or cable) given to Lender not less than three Business Days prior to the first day of each respective Interest Period; provided that: (A) each such period occurring after such initial period shall commence on the day on which the immediately preceding period expires; (B) the final Interest Period shall be such that its expiration occurs on or before the Maturity Date; and (C) if for any reason Borrower shall fail to timely select a period, then such Loans shall continue as, or revert to, Reference Rate Loans.

“**Laws**” means all ordinances, statutes, rules, regulations, orders, injunctions, writs, or decrees of any Governmental Authority.

“**Lending Office**” means the office or offices of Lender described on Schedule 15.02, or such other office or offices as Lender may from time to time notify Borrower.

“**Letter of Credit**” means any Letter of Credit issued on behalf of Borrower in accordance with this Agreement.

“**Letter of Credit Fee Amount**” means 2.0% per annum on the aggregate undrawn face amount of all Letters of Credit outstanding.

“**Letter of Credit Obligations**” means, as of any date of determination, the sum of (a) the aggregate undrawn face amount of all Letters of Credit, plus (b) the aggregate unreimbursed amount of all drawn Letters of Credit not already converted to Loans hereunder.

“**Letter of Credit Sublimit**” means \$1,500,000.00.

“**Lien**” means any security interest, mortgage, deed of trust, pledge, lien, charge, judgment lien, assignment, financing statement, encumbrance, title retention agreement or analogous instrument or device, including the interest of each lessor under any capitalized lease and the interest of any bondsman under any payment or performance bond, in, of or on any assets or properties of a Person, whether now owned or subsequently acquired and whether arising by agreement or operation of law, all whether perfected or unperfected.

“**Live Ventures**” means Live Ventures Incorporated, a Nevada corporation.

“**Loan Documents**” means this Agreement and all other agreements, instruments and documents including guaranties, mortgages, trust deeds, pledges, powers of attorney, consents, assignments, contracts, notices, security agreements, leases, financing statements, Hedging Agreements and all other writings heretofore, now or from time to time hereafter executed by or on behalf of Borrower or any other Person and delivered to Lender or to any parent, affiliate or Subsidiary of Lender in connection with the Obligations or the transactions contemplated hereby, as each of the same may be amended, modified or supplemented from time to time.

“**Loan Party**” means Borrower and each Guarantor.

“**Loans**” means all loans and advances made by Lender to or on behalf of Borrower hereunder.

“**Lock Box**” means a post office box designated by, and under the exclusive control of, Lender, at a financial institution acceptable to Lender.

“**Machinery & Equipment Term Loan**” has the meaning specified in **Section 2.03**.

“**Management Agreement**” means the Advisory Services Agreement, dated as of July 14, 2020, among the Borrower, Holdings and Live Ventures.

“**Management Fee Subordination Agreement**” means the Management Fee Subordination Agreement, dated as of the date hereof, among Borrower, Lender and Live Ventures.

“**Material Adverse Effect**” means any of the following: (a) a material adverse change in, or material adverse effect upon, the business, financial condition, operations, performance, or properties of either: (i) Borrower; or (ii) the Loan Parties taken as a whole; (b) a material impairment of the ability of either Borrower or the Loan Parties taken as a whole, to perform their respective obligations under the Loan Documents; or (c) a material adverse effect upon: (i) the legality, validity, binding effect or enforceability of any Loan Document to which any Loan Party is a party against either: (A) Borrower; or (B) the Loan Parties taken as a whole; or (ii) the rights and remedies of Lender under or in respect of any Loan Document.

“**Maturity Date**” means January 20, 2027.

“**Maximum Revolving Loan Limit**” means \$23,000,000.00, as may be increased from time to time in accordance with the terms hereof.

“**Multiemployer Plan**” means a multiemployer plan (as defined in Section 4001(a)(3) of ERISA) to which Borrower or any ERISA Affiliate contributes or is obligated to contribute.

“**Net Cash Proceeds**” means the aggregate cash or cash equivalent proceeds received by any Loan Party in respect of any Disposition or Event of Loss, net of (a) direct costs incurred in connection therewith (including legal, accounting and sale commissions paid to a Person that is not an Affiliate of a Loan Party), (b) taxes paid or payable as a result thereof, (c) the amount necessary to retire any Indebtedness secured by a Permitted Lien on the related property that is senior to Lender’s Lien on such property, and (d) a reasonable reserve for any indemnification payments (fixed or contingent) attributable to seller’s indemnities and representations and warranties to any purchaser in respect of such Disposition or Event of Loss undertaken by Holdings or any of its Subsidiaries in connection with such Disposition or Event of Loss; provided that upon release of any such reserve, the amount released shall be considered Net Cash Proceeds; it being understood that “Net Cash Proceeds” shall include any cash or cash equivalents received upon the sale or other disposition of any non-cash consideration received by any Loan Party or any Subsidiary in any Disposition or Event of Loss.

“**Net Orderly Liquidation Value**” means the net orderly liquidation value of Equipment, raw materials Inventory, work in process Inventory and finished goods Inventory, as applicable, as determined by Lender in its Permitted Discretion from time to time based upon one or more appraisals prepared by third party appraisers, and otherwise in form and substance, satisfactory to Lender.

“**Notice of Conversion**” means a notice of conversion with respect to any Loan hereunder, which notice shall be in form and substance, and delivered by Borrower to Lender in a manner, acceptable to Lender in its sole discretion.

“**Obligations**” means, in each case, whether now in existence or hereafter arising: (a) the principal of and interest on (including interest accruing after the filing of any bankruptcy or similar petition) the Loans, (b) the Letter of Credit Obligations, (c) each Loan Party’s obligations in

connection with Bank Products, (d) Enforcement Costs, (e) Hedging Obligations of any Loan Party, and (f) all other fees and commissions (including attorneys' fees and expenses), charges, indebtedness, loans, liabilities, financial accommodations, obligations, covenants and duties owing by the Loan Parties and each of their respective Subsidiaries to Lender or to any parent, affiliate or Subsidiary of Lender of every kind, nature and description, direct or indirect, primary or secondary, absolute or contingent, due or to become due, contractual or tortious, liquidated or unliquidated, whether several, joint, or joint and several, and whether or not evidenced by any note and including interest and fees that accrue after the commencement by or against any Loan Party or any Subsidiary thereof of any bankruptcy or similar proceeding, naming such Person as the debtor in such proceeding, regardless of whether such interest and fees are allowed claims in such proceeding; provided, however, Obligations shall not include any Excluded Swap Obligation.

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

“**Operating Cash Flow**” means, for any period, the sum of (without duplication): (a) EBITDA; minus (b) Capital Expenditures not financed made by Borrower and its Subsidiaries; minus (c) all payments in cash for taxes made by Borrower and its Subsidiaries; minus (d) cash dividends paid or accrued and cash withdrawals paid or accrued to Owners or other Affiliates by Borrower and its Subsidiaries (other than the Excluded Distribution), minus (e) all payments in cash for fees, costs, expenses and indemnities arising under the Management Agreement made by Borrower and its Subsidiaries. Notwithstanding the foregoing, for each of the months from April 2021 through December 2021, Operating Cash Flow shall be as set forth on Schedule 12.01.

“**Other Taxes**” means all present or future stamp, intangible or documentary taxes or any other excise or property taxes, charges or similar levies arising from any payment made hereunder or under any other Loan Document or from the execution, delivery or enforcement of, or otherwise with respect to, this Agreement or any other Loan Document.

“**Owner**” means with respect to Borrower, each Person having legal or beneficial title to an ownership interest in Borrower or a right to acquire such an interest.

“**Parent**” means any Person now or at any time or times hereafter owning or controlling (alone or with any other Person) at least a majority of the issued and outstanding equity of Borrower and, if Borrower is a partnership, the general partner of Borrower.

“**Parent Intercompany Taxes Payable**” means the intercompany payable owing by Borrower to Live Ventures in the amount of \$1,738,647.00 as of the Closing Date, which amount was previously recorded on Borrower's balance sheet as “Parent Capital”.

“**Patriot Act**” means Title III of Pub. L. 107 56 (signed into law October 26, 2001).

“**PBGC**” means the Pension Benefit Guaranty Corporation.

“**Pension Plan**” means a pension plan (as defined in Section 3(2) of ERISA) maintained for employees of Borrower or any ERISA Affiliate and covered by Title IV of ERISA.

“**Permitted Acquisition**” means an Acquisition where each of the following are fully and timely satisfied:

- (i) Borrower provides Lender at least ten (10) days' prior written notice of the closing thereof;
- (ii) no Default or Event of Default has occurred and is continuing or would exist after giving effect to such Acquisition on a pro forma basis;
- (iii) the acquired entity is located in the United States and in the same or similar line of business as that of Borrower, or a business ancillary thereto;
- (iv) the target of such Acquisition must have had positive EBITDA for the twelve (12) month period preceding such Acquisition;
- (v) such Acquisition does not result in a Change of Control and, if such acquisition includes a merger with a Loan Party, such Loan Party is the surviving entity;
- (vi) Lender has received satisfactory historical financials (audited if available) and pro forma financials (determined by Lender in its reasonable discretion) on the target;
- (vii) to the extent that all or a portion of the consideration for such Permitted Acquisition is funded from any source other than the proceeds of Qualified Equity Interests (excluding proceeds derived from any Curative Equity) received for the sole purpose of satisfying such consideration, total consideration (determined at the time of purchase thereof and including assumption of liabilities and the good faith estimate by Borrower of the maximum amount of any deferred purchase price obligations (including, without duplication, any earnout payments and any seller notes)) (the "Total Consideration") for any single transaction does not exceed Two Million and no/100 Dollars (\$2,000,000) and for all such transactions does not exceed Six Million and no/100 Dollars (\$6,000,000) in the aggregate during the term of this Agreement;
- (viii) the acquired entity becomes a Borrower hereunder contemporaneously with the closing of any such Acquisition in compliance with Sections 11.04 and grants to Lender Liens on its assets to secure the Obligations pursuant to Section 5;
- (ix) with respect to any Acquisition where the total consideration exceeds Two Million and no/100 Dollars (\$2,000,000) and all or a portion of such consideration is paid from any source other than the proceeds of Qualified Equity Interests (excluding proceeds derived from any Curative Equity) received for the sole purpose of satisfying such consideration, Borrower shall have provided a quality of earnings report with respect to the acquired Person;
- (x) all representations and warranties contained herein and in the other Loan Documents shall be true and correct in all material respects (except those which are qualified by materiality, which shall be true and correct in all respects) with the same effect as though such representations and warranties had been made on and as of the date of such acquisition (both before and after giving effect thereto), unless stated to relate to a specific earlier date, in which case such representations and warranties shall be true and correct in all material respects (except those which are qualified by materiality, which shall be true and correct in all respects) as of such earlier date;
- (xi) after giving effect to such Acquisition, Borrower shall be in pro forma compliance with the financial covenants set forth in Section 12;

(xii) immediately after giving effect to (i) the initial closing of such Acquisition and the payment of the purchase price due thereunder, and (ii) the payment of all fees due upon such date, Borrower has Excess Availability of not less than \$2,000,000.00; and

(xiii) Borrower shall have delivered to Lender a certificate signed by a duly authorized officer of Borrower, in form and substance satisfactory to Lender, certifying as to compliance with this definition, including applicable pro forma calculations of financial requirements.

Notwithstanding the foregoing, no Accounts or Inventory acquired in connection with any Permitted Acquisition shall be included as Eligible Accounts or Eligible Inventory until a field examination and/or appraisal with respect thereto has been completed to the satisfaction of the Lender; provided further, the field examinations and appraisals in connection with Permitted Acquisitions shall not count against the limited number of field examinations or appraisals for which expense reimbursement by Borrower is required under this Agreement.

“Permitted Discretion” means a determination made in the exercise of reasonable (from the perspective of an asset-based secured lender) business judgment.

“Permitted Liens” means: (a) statutory Liens of landlords, carriers, warehousemen, processors, mechanics, materialmen or suppliers incurred in the ordinary course of business and securing amounts not overdue by more than 30 days or which are being contested in good faith and by appropriate proceedings and for which Borrower has maintained adequate reserves in accordance with GAAP; (b) Liens or security interests in favor of Lender; (c) zoning restrictions and easements, licenses, covenants and other restrictions affecting the use of real property that do not individually or in the aggregate have a Material Adverse Effect; (d) Liens in connection with purchase money indebtedness with respect to Equipment and capitalized leases otherwise permitted pursuant to this Agreement, provided, that such Liens attach only to the assets the purchase of which was financed by such purchase money indebtedness or which is the subject of such capitalized leases; (e) Liens set forth on Schedule 1.01-C; (f) Liens specifically permitted by Lender in writing; (g) involuntary Liens securing amounts less than \$250,000 and which are released or for which a bond acceptable to Lender, in its sole discretion, has been posted within ten (10) days of its creation; (h) Liens for taxes, assessments and other government charges or levies not yet due and payable or which are being contested in good faith and by appropriate proceedings and for which Borrower has maintained adequate reserves in accordance with GAAP; (i) Liens consisting of deposits or pledges made in the ordinary course of business in connection with workers’ compensation, unemployment, social security and similar laws, or to secure the performance of statutory obligations, bids, leases, government contracts, trade contracts, and other similar obligations (exclusive of obligations for the payment of borrowed money); (j) licenses (with respect to intellectual property and other property), leases and subleases granted to third parties and not interfering in any material respect with ordinary conduct of business of Borrower; (k) Liens in favor of customs and revenue authorities arising as a matter of law to secure payment of customs duties in connection with the importation of goods; (l) Liens of collecting banks under the UCC on items in the course of collection, statutory Liens and rights of set-off of banks; (m) Liens arising from filing UCC financing statements relating solely to leases not prohibited by this Agreement; (n) pledges and deposits in the ordinary course of business securing insurance premiums or reimbursement obligations or indemnification obligations under insurance policies or self-insurance arrangements, in each case payable to insurance carriers that provide insurance

to the Borrower or any of its Subsidiaries; (o) Liens on cash and cash equivalents on deposit with Lender and Affiliates of Lender securing obligations owing to such Persons under any treasury, depository, overdraft or other cash management services agreements or arrangements with the Borrower or any Subsidiary of Borrower; (p) Liens arising out of conditional sale, title retention, consignment or similar arrangements for sale of goods entered into by the Borrower or any of its Subsidiaries which arrangements are (i) made in the ordinary course of business and (ii) not prohibited by this Agreement; (q) judgment Liens in respect of judgments that do not constitute an Event of Default; (r) [Reserved]; and (s) Liens securing Indebtedness permitted pursuant to Section 11.2(1), provided that with respect to this clause (s), (i) such Lien does not encumber Accounts or Inventory, (ii) such Lien is not created in contemplation of or in connection with such Permitted Acquisition, (iii) such Lien will not encumber or restrict any property of Borrower or any Loan Party other than Liens existing on property at the time of the acquisition thereof by Borrower or a Loan Party, and (iv) such Lien shall secure only those obligations of the acquired company that it secured on the date of such Permitted Acquisition.

“**Person**” means any individual, sole proprietorship, partnership, joint venture, trust, unincorporated organization, association, corporation, limited liability company, institution, entity, party or foreign or United States government (whether federal, state, county, city, municipal or otherwise), including any instrumentality, division, agency, body or department thereof.

“**Plan**” means an employee benefit plan (as defined in Section 3(3) of ERISA) maintained for employees of Borrower or any ERISA Affiliate.

“**Pledged Collateral**” means, collectively, Pledged Debt and Pledged Equity Interests.

“**Pledged Debt**” means all debt owed or owing to Borrower or any Subsidiary of Borrower by any other Person (in each case to the extent not constituting Excluded Property), and all Instruments, Chattel Paper or other documents, if any, representing or evidencing such debt.

“**Pledged Equity Interests**” means all Equity Interests (other than Equity Interests constituting Excluded Property) owned or held by or on behalf of Borrower in any Person, and all Security Certificates, Instruments and other documents, if any, representing or evidencing such Equity Interests.

“**Qualified Equity Interests**” means Equity Interests other than Disqualified Equity Interests.

“**Reference Rate**” means Lender’s publicly announced prime rate (which is not intended to be Lender’s lowest or most favorable rate in effect at any time) in effect from time to time.

“**Reference Rate Loans**” means the Loans bearing interest with reference to the Reference Rate.

“**Reportable Event**” means a reportable event (as defined in Section 4043 of ERISA), other than an event for which the 30-day notice requirement under ERISA has been waived in regulations issued by the PBGC.

“**Revolving Loan Limit Increase**” has the meaning specified in **Section 2.02(d)**.

“**Revolving Loans**” has the meaning specified in **Section 2.01**.

“**Sanctions**” has the meaning set forth in **Section 9.22(b)**.

“**Slow-Moving Inventory**” means any Inventory in excess of the most recent 12 months of sales or usage for such Inventory (other than newly developed products manufactured or introduced within the last 6 months) and any Inventory that has not been produced within the prior 12 months.

“**SOFR**” means, with respect to any Business Day, a rate per annum equal to the secured overnight financing rate published by the Federal Reserve Bank of New York (or a successor administrator) on the administrator’s website (or any successor source for the secured overnight financing rate identified as such by the administrator) at approximately 2:30 p.m. (New York City time) on the immediately succeeding Business Day.

“**Spread Adjustment**” means a mathematical or other adjustment to an alternate benchmark rate selected pursuant to Section 4.04(c) of the Agreement and such adjustment may be positive, negative, or zero subject to the specific Spread Adjustments set forth in Section 4.04(c).

“**Subordinated Debt**” means Indebtedness of Borrower that is subordinated to the Obligations pursuant to a written subordination agreement in form and substance reasonably satisfactory to Lender.

“**Subordinated Debt Documents**” means any and all promissory notes, agreements, documents or instruments now or at any time evidencing, securing, guarantying or otherwise executed and delivered in connection with the Subordinated Debt, as the same may from time to time be amended, restated, supplemented or modified.

“**Subsidiary**” means as to any Person, any corporation, partnership, limited liability company or other entity of which more than 50% of the outstanding Equity Interests having ordinary voting power to elect a majority of the board of directors (or equivalent governing body) or other managers of such corporation, partnership, limited liability company or other entity is at the time owned by (directly or indirectly) or the management is otherwise controlled by (directly or indirectly) such Person (irrespective of whether, at the time, Equity Interests of any other class or classes of such corporation, partnership, limited liability company or other entity shall have or might have voting power by reason of the happening of any contingency).

“**Successor Rate**” shall mean any successor index rate determined pursuant to Section 4.04(c) from time to time.

“**Swap Obligation**” means, with respect to any Guarantor, any obligation to pay or perform under any agreement, contract or transaction that constitutes a “swap” within the meaning of section 1a(47) of the Commodity Exchange Act.

“**Tax Distributions**” means, with respect to any taxable period for which the Borrower is part of a consolidated, combined, affiliated, unitary or similar income tax group for U.S. federal and/or applicable state or local income tax purposes for which another Person is the common

parent, cash distributions in an amount not to exceed the amount of any U.S. federal, state and/or local income taxes that the Borrower would have paid for such taxable period had the Borrower been a stand-alone corporate taxpayer and not otherwise paid or payable by the Borrower.

“**Taxes**” means all present or future taxes, levies, imposts, duties, deductions, withholdings, assessments, fees or other charges imposed by any Governmental Authority, including any interest, additions to tax or penalties applicable thereto.

“**Term Loans**” means, collectively, the Machinery & Equipment Term Loan and the Capital Expenditure Loans.

“**Term SOFR**” means, with respect to a Tranche Rate Loan for any Interest Period, the forward-looking SOFR rate administered by CME Group, Inc. (or other administrator selected by the Lender) and published on the applicable Bloomberg LP screen page (or such other commercially available source providing such quotations as may be selected by the Lender), fixed by the administrator thereof two Business Days prior to the commencement of the applicable Interest Period (provided, however, that if Term SOFR is not published for such Business Day, then Term SOFR shall be determined by reference to the immediately preceding Business Day on which such rate is published), rounded upwards, if necessary, to the next 1/8th of 1% and adjusted for reserves if Lender is required to maintain reserves with respect to the relevant Loans, all as determined by Lender in accordance with the Agreement and Lender’s loan systems and procedures periodically in effect.

“**Termination Date**” means the earliest of (a) the Maturity Date, (b) the date Borrower terminates this Agreement, or (c) the date the Lender accelerates payment of the Obligations pursuant to **Section 13.02**.

“**Tranche Rate**” means, with respect to any Interest Period, the greater of (a) 0.0% (the “**Floor**”) and (b) Term SOFR relating to quotations for one month. Each determination by Lender of the Tranche Rate shall be conclusive and binding in the absence of manifest error. Notwithstanding anything to the contrary contained in the Agreement, at any time during which a Hedging Agreement is then in effect with respect to all or a portion of the Obligations bearing interest based upon the Tranche Rate, the provision that rounds up the Tranche Rate to the next 1/8th of 1% shall be disregarded and no longer of any force and effect with respect to such portion of the Obligations that are subject to such Hedging Agreement.

“**Tranche Rate Loans**” means any Loans that accrue interest by reference to the Tranche Rate for an Interest Period elected by Borrower in accordance with Section 4.04(a) of the Agreement and the other terms of the Agreement.

“**Tranche Rate Replacement Date**” has the meaning ascribed to it in Section 4.04(c) of the Agreement.

“**Uniform Commercial Code**” or “**UCC**” means the Uniform Commercial Code as in effect in the State of Illinois.

1.02 Other Definitional Terms; Rules of Interpretation.

The words “hereof”, “herein” and “hereunder” and words of similar import when used in this Agreement shall refer to this Agreement as a whole and not to any particular provision of this Agreement. All terms defined in the Uniform Commercial Code and not otherwise defined herein have the meanings assigned to them in the Uniform Commercial Code. References to Articles, Sections, subsections, Exhibits, Schedules and the like, are to Articles, Sections and subsections of, or Exhibits or Schedules attached to, this Agreement unless otherwise expressly provided. The words “include”, “includes” and “including” shall be deemed to be followed by the phrase “without limitation”. Unless the context in which used herein otherwise clearly requires, “or” has the inclusive meaning represented by the phrase “and/or”. Defined terms include in the singular number the plural and in the plural number the singular. Reference to any agreement (including the Loan Documents), document or instrument means such agreement, document or instrument as amended or modified and in effect from time to time in accordance with the terms thereof (and, if applicable, in accordance with the terms hereof and the other Loan Documents), except where otherwise explicitly provided, and reference to any promissory note includes any promissory note which is an extension or renewal thereof or a substitute or replacement therefor. Reference to any law, rule, regulation, order, decree, requirement, policy, guideline, directive or interpretation means as amended, modified, codified, replaced or reenacted, in whole or in part, and in effect on the determination date, including rules and regulations promulgated thereunder. Periods of days referred to in this Agreement will be counted in calendar days unless Business Days are expressly prescribed.

1.03 Accounting Terms.

All accounting terms not otherwise defined herein have the meanings assigned to them in accordance with GAAP. If at any time any change in GAAP would, in either case, affect the computation of any financial ratio or financial requirement set forth in any Loan Document, and either Borrower or Lender shall so request, Lender and Borrower shall negotiate in good faith to amend such ratio or requirement to preserve the original intent thereof in light of such change in GAAP; *provided*, that until so amended, (a) such ratio or requirement shall continue to be computed in accordance with GAAP prior to such change therein and (b) the Loan Parties shall provide to Lender financial statements and other documents required under this Agreement which include a reconciliation between calculations of such ratio or requirement made before and after giving effect to such change in GAAP; *provided, further*, that (i) any election under Accounting Standards Codification 825-10-25 (previously referred to as Statement of Financial Accounting Standards 159) (or any other Accounting Standards Codification or Financial Accounting Standard having a similar result or effect) to value any Indebtedness or other liabilities of any Loan Party at “fair value”, as defined therein shall be disregarded for all purposes herein and (ii) the effect of any changes to GAAP that would require leases which are, or would have been, classified as operating leases under GAAP as it exists on the Closing Date to be classified and accounted for as capital leases under the revised GAAP (including by reason of adoption of FASB Accounting Standards Update 2016-02) shall be disregarded for all purposes herein. Notwithstanding anything to the contrary in this Agreement or any other Loan Document, the Loan Parties shall not, without the prior written consent of Lender, cause or permit any change in application of GAAP, or any method of GAAP utilized, by the Loan Parties in their financial statements after the Closing Date.

2. LOANS.

2.01 Revolving Loans.

Subject to the terms and conditions of the Loan Documents, from time to time prior to the Termination Date, Lender shall make revolving loans and advances (the “**Revolving Loans**”) in a principal amount at any time outstanding not in excess of Availability.

2.02 Requests for Revolving Loans.

(a) A request for a Revolving Loan shall be made or shall be deemed to be made, each in the following manner: Borrower shall give Lender same day notice, no later than 12:00 P.M. (Chicago, Illinois local time) for such day, of its request for a Revolving Loan as a Reference Rate Loan, and at least three Business Days prior notice of its request for a Revolving Loan as a Tranche Rate Loan, in which notice Borrower shall specify the amount of the proposed borrowing and the proposed borrowing date; provided, however, that no such request may be made during a Default Period. Borrower shall deliver to Lender, on each day on which Borrower requests a Revolving Loan, an advance request form in Lender’s then current form. In the event that Borrower maintains a controlled disbursement account at Lender, each check presented for payment against such controlled disbursement account and any other charge or request for payment against such controlled disbursement account shall constitute a request for a Revolving Loan as a Reference Rate Loan. As an accommodation to Borrower, Lender may permit telephone requests for Revolving Loans and electronic transmittal of instructions, authorizations, agreements or reports to Lender by Borrower in which case an advance request form is not required. Unless Borrower specifically directs Lender in writing not to accept or act upon telephonic or electronic communications from Borrower, Lender shall have no liability to Borrower for any loss or damage suffered by Borrower as a result of Lender’s honoring of any requests, execution of any instructions, authorizations or agreements or reliance on any reports communicated to it telephonically or electronically and purporting to have been sent to Lender by Borrower and Lender shall have no duty to verify the origin of any such communication or the authority of the Person sending it.

(b) Each request by Borrower for a wire transfer, ACH transfer, or other withdrawal made through use of Lender’s Web Express system (or any successor platform) from deposit accounts maintained with Lender will be deemed a request for a Revolving Loan.

(c) Borrower hereby irrevocably authorizes Lender to disburse the proceeds of each Revolving Loan requested by Borrower, or deemed to be requested by Borrower, as follows: (i) the proceeds of each Revolving Loan requested under **Section 2.02(a)** shall be disbursed by Lender in lawful money of the United States of America in immediately available funds, (ii) in the case of the initial borrowing, in accordance with the terms of the written disbursement letter from Borrower, and (iii) in the case of each subsequent borrowing, by wire transfer or Automated Clearing House (ACH) transfer to such bank account as may be agreed upon by Borrower and Lender from time to time, or elsewhere if pursuant to a written direction from Borrower.

(d) Accordion Option.

(i) **Request for Increase.** So long as no Event of Default shall have occurred and then be continuing, Borrower may make a one-time request, upon not less than thirty (30) days prior written notice to Lender, that Lender increase the Maximum Revolving Loan Limit by an aggregate principal amount not to exceed \$2,000,000.00 (collectively, the “**Revolving Loan Limit Increase**”) and simultaneously therewith, increase the Inventory sublimit (as set forth in paragraph (b)(ii) of the definition of “Borrowing Base”) by 50% of such requested Revolving Loan Limit Increase (the “**Sublimit Increase**”).

(ii) **Notices.** A request from Borrower pursuant to this subsection (d) shall set forth the requested amount, compliance with the aforementioned condition precedent, and the proposed terms of the Revolving Loan Limit Increase. Under no circumstances will Lender be obligated to make the Revolving Loan Limit Increase or the Sublimit Increase hereunder and any such Revolving Loan Limit Increase and Sublimit Increase may be made or not made in Lender’s sole and absolute discretion pursuant to terms and conditions required by Lender. The Revolving Loan Limit Increase, if any, shall become Revolving Loans under this Agreement pursuant to an amendment to this Agreement and the other Loan Documents required by Lender in connection therewith.

2.03 **Machinery & Equipment Term Loan.**

Subject to the terms and conditions of the Loan Documents, on the date that the conditions to the initial Loans are satisfied, Lender shall make a term loan to Borrower in an amount equal to \$3,500,000.00 (the “**Machinery & Equipment Term Loan**”). Amounts repaid with respect to the Machinery & Equipment Term Loan may not be reborrowed.

2.04 **[Reserved].**

2.05 **Capital Expenditure Term Loans.**

(a) Subject to the terms and conditions of the Loan Documents, Lender agrees to make advances to Borrower from time to time prior to the expiration of the Draw Period (each a “**Capital Expenditure Loan**”) in an aggregate principal amount not to exceed, at Lender’s option, (i) 80.0% of the purchase price (exclusive of sales taxes, delivery charges and other "soft" costs related to such purchase) of Equipment to be purchased with the proceeds of such Capital Expenditure Loan, or (ii) 85.0% of the Net Orderly Liquidation Value of Equipment to be purchased with the proceeds of such Capital Expenditure Loan, in each case which Equipment is reasonably acceptable to Lender, and upon which Lender shall have a first priority perfected security interest; provided, however, that the aggregate amount advanced for such purchases shall not exceed \$2,500,000.00.

(b) Borrower shall comply with the following procedures in requesting Capital Expenditure Loans:

(i) All requests for Capital Expenditure Loans shall include a copy of an invoice for the equipment to be acquired, a description of the equipment to be acquired, the amount

of the request, and all other documents or agreements as reasonably required by Lender. Upon Lender's request, Borrower shall provide Lender evidence reasonably satisfactory to Lender of payment for the Equipment acquired with a Capital Expenditure Loan, including a bill of sale.

(ii) Each Capital Expenditure Loan shall be in a minimum amount of at least \$100,000.00.

(iii) All requests for Capital Expenditure Loans shall be made at least three (3) Business Days prior to the requested date of such advance.

(iv) All requests for Capital Expenditure Loans shall be made during the period from the Closing Date through the third anniversary of Closing Date (the "**Draw Period**").

2.06 **[Reserved]**.

2.07 **Repayments.**

The Obligations shall be repaid as follows:

(a) Repayment of Revolving Loans. Borrower shall repay the Revolving Loans and all other Obligations (other than the Term Loans) on the Termination Date. Borrower may from time to time voluntarily prepay the Revolving Loans (without a reduction in the Maximum Revolving Loan Limit) in whole or in part subject to the terms and conditions of this Agreement. If any such payment due date is not a Business Day, then such payment may be made on the next succeeding Business Day and such extension of time shall be included in the computation of the amount of interest and fees due hereunder. Subject to all of the terms, conditions and limitations of this Agreement, amounts repaid in respect of the Revolving Loans may be reborrowed.

(b) Repayment of Machinery & Equipment Term Loan. Borrower shall repay the principal balance of the Machinery & Equipment Term Loan in equal monthly principal installments of \$41,666.67 payable on the first day of each month commencing February 1, 2022; provided, that Borrower shall repay any remaining outstanding principal balance of the Machinery & Equipment Term Loan on the Termination Date. If any such payment due date is not a Business Day, then such payment may be made on the next succeeding Business Day and such extension of time shall be included in the computation of the amount of interest and fees due hereunder.

(c) [Reserved].

(d) Repayment of Capital Expenditure Term Loans.

Borrower shall repay the Capital Expenditure Loans in monthly installments equal to the following:

- | | | |
|-------|---|---|
| (i) | Beginning on February 1, 2023 and continuing on the first day of each month thereafter, until such Capital Expenditure Loans are paid in full | An amount equal to the aggregate Capital Expenditure Loans advanced on or before December 31, 2022 divided by 60; |
| (ii) | Beginning on February 1, 2024 and continuing on the first day of each month thereafter, until such Capital Expenditure Loans are paid in full | An amount equal to the aggregate Capital Expenditure Loans advanced after December 31, 2022 and on or before December 31, 2023 divided by 60; and |
| (iii) | Beginning on February 1, 2025 and continuing on the first day of each month thereafter, until such Capital Expenditure Loans are paid in full | An amount equal to the aggregate Capital Expenditure Loans advanced after December 31, 2023 and on or before the last day of the Draw Period divided by 60. |

The principal payments required in each of the forgoing subsections are cumulative. Borrowers shall repay any remaining outstanding principal balance of all Capital Expenditure Loans on the Termination Date. If any such payment due date is not a Business Day, then such payment may be made on the next succeeding Business Day and such extension of time shall be included in the computation of the amount of interest and fees due hereunder.

(e) [Reserved].

(f) Mandatory Prepayments.

(i) Overadvances. If at any time Availability (after giving effect to all applicable sublimits within the Borrowing Base) is less than \$0.00, Borrower shall promptly, and without the necessity of demand by Lender, pay to Lender such amount as may be necessary to eliminate such excess and Lender shall apply such payment to the Revolving Loans (without a reduction in the Maximum Revolving Loan Limit) to eliminate such excess.

(ii) Sales of Assets. Upon receipt of the proceeds of Disposition of any Equipment or real property of Borrower which is subject to a Lien in favor of Lender, Borrower shall pay the Net Cash Proceeds thereof to Lender as a mandatory prepayment of the applicable Term Loan (as determined by Lender, but to the extent such asset was identified as the target of a Capital Expenditure Loan, such amounts shall first be applied the corresponding Capital Expenditure Loan), such payment to be applied against the remaining installments of principal in the inverse order of their maturities until such Term Loan is repaid in full, and then against the remaining installments of principal of the remaining Term Loans in the inverse order of their maturities until such Term Loans are repaid in full, then against the Revolving Loans (without a reduction in the Maximum Revolving Loan Commitment) until repaid in full, and then against the other Obligations then due and owing, as determined by Lender, in its sole discretion. Notwithstanding the foregoing, provided a Default Period is not in effect, no prepayment need be made from sales proceeds of assets received on account of Borrower's Equipment or real property

subject to a Lien in favor of Lender if and to the extent such proceeds are applied to the replacement of such assets within one hundred eighty (180) days of receipt thereof (or enters into a binding commitment therefor within said one hundred eighty (180) day period and subsequently purchases such replacement assets within three hundred sixty (360) days after the date of receipt of such Net Cash Proceeds) and, prior to the purchase of replacement assets, at Lender's option, such proceeds are maintained in an escrow account or an Availability Reserve is implemented in the amount of such proceeds.

(iii) Events of Loss. If any Equipment or real property of Borrower which is subject to a Lien in favor of Lender is damaged, destroyed or taken by condemnation in whole or in part, Borrower shall pay the Net Cash Proceeds thereof to Lender as a mandatory prepayment of the applicable Term Loan (as determined by Lender, but to the extent such asset was identified as the target of a Capital Expenditure Loan, such amounts shall first be applied the corresponding Capital Expenditure Loan), such payment to be applied against the remaining installments of principal in the inverse order of their maturities until such Term Loan is repaid in full, and then against the remaining installments of principal of the remaining Term Loans in the inverse order of their maturities until such Term Loans are repaid in full, then against the Revolving Loans (without a reduction in the Maximum Revolving Loan Commitment) until repaid in full, and then against the other Obligations then due and owing, as determined by Lender, in its sole discretion. Notwithstanding the foregoing, provided a Default Period is not in effect, no prepayment need be made from insurance proceeds received on account of damage or destruction of Borrower's assets if and to the extent that such insurance proceeds are applied to the repair or replacement of such assets within one hundred eighty (180) days of receipt thereof (or enters into a binding commitment therefor within said one hundred eighty (180) day period and subsequently purchases such replacement assets within three hundred sixty (360) days after the date of receipt of such Net Cash Proceeds) and, prior to the repair or replacement of such assets, at Lender's option, such proceeds are maintained in an escrow account or an Availability Reserve is implemented in the amount of such proceeds.

Notwithstanding the forgoing, if a Default Period does not then exist, no prepayment need be made under clauses (ii) and (iii) above from the initial \$100,000 of aggregate Net Cash Proceeds received by the Loan Parties in any Fiscal Year for each of clause (ii) and (iii).

2.08 **Bank Products.**

Borrower may request, and Lender or its affiliates may, in their sole and absolute discretion, provide, Bank Products although Borrower is not required to do so. In the event Borrower requests Lender and/or its affiliates to procure or provide Bank Products, then Borrower agrees with Lender and/or such affiliates, as applicable, to pay when due all indebtedness, liabilities and obligations with respect to Bank Products and further agrees to indemnify and hold Lender and/or such affiliates harmless from any and all indebtedness, liabilities, obligations, losses, costs and expenses (including reasonable attorney's fees) now or hereafter owing to or incurred by Lender (including those under agreements of indemnifications or assurances provided by Lender to its affiliates) and/or its affiliates with respect to Bank Products, all as the same may arise. In the event Borrower shall not have paid to Lender and/or its affiliates such amounts, Lender may cover such amounts by an advance under the Revolving Loan, which advance shall be deemed to have been requested by Borrower. Borrower acknowledges and agrees that (a) all indebtedness, liabilities and

obligations with respect to Bank Products provided by Lender or its affiliates, and all of its agreements under this **Section 2.08**, are part of the Obligations secured by the Collateral, and (b) the obtaining of Bank Products from Lender or its affiliates (i) is in the sole and absolute discretion of Lender or its affiliates and (ii) is subject to all rules and regulations of Lender or its affiliates.

3. LETTERS OF CREDIT.

3.01 General Terms.

(a) Issuance.

(i) Subject to the terms and conditions of the Agreement, Lender agrees to incur, from time to time prior to the Termination Date, upon the request of Borrower and for Borrower's or any Subsidiary's account, Letter of Credit Obligations with respect to Letters of Credit issued by Lender for Borrower's or any Subsidiary's account. Borrower shall give Lender at least five Business Days prior written notice requesting the incurrence of any Letter of Credit Obligation. The notice shall be accompanied by a completed Letter of Credit application. Notwithstanding anything contained herein to the contrary, Letter of Credit applications by Borrower and communications by Lender may be made and transmitted pursuant to electronic codes and security measures mutually agreed upon and established by and between Borrower and Lender. Borrower hereby authorizes Lender to accept, act upon, and treat as genuine and original (but without any obligation of Lender to do any of the foregoing) applications, authorizations, and other requests regardless of the manner communicated, including those sent or communicated via overnight courier, certified or non-certified mail, fax, email, electronic code, or phone, so long as Lender does not have actual knowledge that a particular application, authorization, or other request is not authorized by the Borrower.

(ii) The aggregate face amount of all such Letter of Credit Obligations shall not at any time exceed the least of (i) the Letter of Credit Sublimit, and (ii) the Borrowing Base less the aggregate outstanding Revolving Loans.

(iii) The Borrower is responsible for preparing and approving the text of each Letter of Credit, notwithstanding any drafting recommendations or forms provided by Lender. Lender will have no liability with respect to Letter of Credit terms or conditions that (A) are erroneous, ambiguous, inconsistent, insufficient, ineffective, or illegal, (B) require Lender to respond to a demand in fewer than three Business Days, or (C) require or allow the Borrower to sign, issue, or present a document. Notwithstanding anything to the contrary in the Agreement, Lender's obligation to issue, amend, or extend the expiration date of a Letter of Credit is subject to its review and approval of the proposed terms of the Letter of Credit (and any amendment thereof) in its sole discretion. The Borrower represents and warrants to Lender that the Borrower is familiar with, and understands, applicable Law and letter of credit practice. If requested by Lender, Borrower will execute, deliver, and submit a letter of credit application and reimbursement agreement on

Lender's standard forms in connection with any request for a Letter of Credit. In the event of any inconsistency between the terms and conditions of the Agreement and the terms and conditions of any such letter of credit application or reimbursement agreement, the terms and conditions of the Agreement will control. Notwithstanding anything to the contrary in the Agreement but subject to the Borrower's ultimate responsibility as set forth above in this paragraph (a), Lender's obligation to issue, amend, or extend the expiration date of a Letter of Credit is subject to its review and approval of the proposed terms of the Letter of Credit (and any amendment thereof) in its sole discretion.

(b) Expiration Date. Except for Evergreen Letters of Credit that are subject to the terms and conditions set forth below in this paragraph (b), no Letter of Credit shall have an expiration date that is later than the earlier of (i) one year following the date of issuance thereof (or, in the case of any extension of the expiration date thereof, whether automatic or by amendment, one year after the then-current expiration date of such Letter of Credit) and (ii) the date that is five Business Days before the Termination Date, and Lender shall not be under any obligation to incur Letter of Credit Obligations in respect of any Letter of Credit having an expiration date that is later than the Termination Date. If the Borrower so requests in any notice requesting the issuance of a Letter of Credit (or the amendment of an outstanding Letter of Credit), Lender may, in its sole discretion, agree to issue a Letter of Credit that has automatic extension provisions (each, an "**Evergreen Letter of Credit**"), provided that any such Evergreen Letter of Credit shall permit Lender to prevent any such extension at least once in each twelve-month period (commencing with the date of issuance of such Letter of Credit) by giving prior notice to the beneficiary thereof not later than a day (the "**Non-Extension Notice Date**") in each such twelve-month period to be agreed upon by the Borrower and Lender at the time such Letter of Credit is issued. Unless otherwise directed by Lender, the Borrower shall not be required to make a specific request to Lender for any such extension.

(c) Reimbursement and Interim Interest.

(i) If Lender shall make any payment in respect of a Letter of Credit, the Borrower shall reimburse Lender in respect of such payment by paying to Lender an amount equal to such payment not later than 12:00 noon, Cincinnati, Ohio time, on (A) the Business Day that the Borrower receives notice of such payment, if such notice is received before 10:00 am, Cincinnati, Ohio time, or (B) the Business Day immediately following the day that the Borrower receives such notice, if such notice is not received prior to such time.

(ii) If Lender shall make any payment on a Letter of Credit then, unless the Borrower shall reimburse such payment in full on the date such payment is made, the unpaid amount thereof shall: (A) be deemed to be a Revolving Loan under Section 2.01 of this Agreement, regardless of whether a Default or Event of Default has occurred and is continuing and notwithstanding Borrower's failure to satisfy the conditions precedent set forth in Section 14.02 and (B) bear interest, for each day from and including the date such payment is made to but excluding the date that the Borrower reimburses such payment, at the rate per annum then

applicable to Reference Rate Loans; provided that, if the Borrower fails to reimburse such payment when due pursuant to paragraph (c)(i) above, then the unpaid amount thereof shall bear interest, for each day from and including the date such payment is made to but excluding the date that the Borrower reimburses such payment, at the Default Rate.

(d) Limitations. In addition to, and without limiting, any other provision of this Agreement or any other Loan Document, Lender shall not be under any obligation to issue any Letter of Credit if:

(i) any order, judgment, or decree of any Governmental Authority or arbitrator shall enjoin or restrain, or purport to enjoin or restrain, Lender from issuing such Letter of Credit, or any Law applicable to Lender shall prohibit, or request that Lender refrain from, the issuance of letters of credit generally or such Letter of Credit in particular or shall impose upon Lender with respect to such Letter of Credit any restriction, reserve, or capital requirement (for which Lender is not otherwise compensated hereunder) not in effect on the Closing Date, or shall impose upon Lender any unreimbursed loss, cost, or expense that was not applicable on the Closing Date and that Lender in good faith deems material to it; or

(ii) the issuance of such Letter of Credit would violate one or more policies of Lender.

In addition, Lender shall be under no obligation to amend any Letter of Credit if (A) Lender would have no obligation at such time to issue the Letter of Credit in its amended form under the terms hereof, or (B) the beneficiary of the Letter of Credit does not accept the proposed amendment to the Letter of Credit.

(e) Cash Collateral.

(i) If Borrower is required to provide cash collateral for any Letter of Credit Obligations pursuant to the Agreement prior to the Termination Date, Borrower will pay to Lender cash or cash equivalents acceptable to Lender (“**Cash Collateral**”) in an amount equal to 105% of the Letter of Credit Obligations plus accrued and unpaid interest thereon. Such Cash Collateral shall be held by Lender and pledged to, and subject to the control of, Lender. Borrower hereby pledges and grants to Lender a security interest in all such Cash Collateral and all proceeds thereof, as security for the payment of all amounts due in respect of the Letter of Credit Obligations and other Obligations, whether or not then due. The Agreement, including this paragraph (e)(i), shall constitute a security agreement under applicable Laws.

(ii) If any Letter of Credit Obligations, whether or not then due and payable, shall for any reason be outstanding on the Termination Date, Borrower shall either (A) provide Cash Collateral therefor in the manner described, and

subject to the terms and conditions as set forth, above, or (B) cause all such Letters of Credit and guaranties thereof, if any, to be canceled and returned.

(iii) From time to time after funds are deposited as Cash Collateral by Borrower, whether before or after the Termination Date, Lender may apply such funds then held by it to the payment of any amounts, and in such order as Lender may elect, as shall be or shall become due and payable by Borrower to Lender with respect to such Letter of Credit Obligations of Borrower and, upon the satisfaction in full of all Letter of Credit Obligations of Borrower, to any other Obligations then due and payable.

(iv) Neither Borrower nor any Person claiming on behalf of or through Borrower shall have any right to withdraw any of the Cash Collateral, except that upon the termination of all Letter of Credit Obligations and the payment of all amounts payable by Borrower to Lender in respect thereof, any remaining Cash Collateral shall be applied to other Obligations then due and owing and upon payment in full of such Obligations any remaining amount shall be paid to Borrower or as otherwise required by Law. Interest earned, if any, on Cash Collateral shall be held as additional collateral.

(f) Fees and Expenses. In addition to the Letter of Credit Fees payable pursuant to Section 4.05(c) of this Agreement, Borrower shall pay to Lender, on demand, such fees as are set forth from time to time in Lender's fee schedule for letters of credit. The Borrower acknowledges that Lender may modify such fee schedule at any time and will communicate such new fee schedule information to the Borrower as required in the notice provision hereunder. Such new fees will be effective 30 days after such notice and shall apply as of such date to all existing and future Letters of Credit issued by Lender. In the event of any inconsistency between the fees set forth in this Agreement and the fees set forth in such fee schedule, the fees set forth in this Agreement will control.

(g) Obligations Absolute. The obligation of Borrower to reimburse Lender for payments made with respect to any Letter of Credit Obligation shall be absolute, unconditional, and irrevocable, without necessity of presentment, demand, protest, or other formalities. Such obligations of Borrower shall be paid strictly in accordance with the terms hereof under all circumstances, including the following:

(i) any lack of validity or enforceability of any Letter of Credit or the Agreement or the other Loan Documents or any other agreement;

(ii) the existence of any claim, setoff, defense, or other right that Borrower or any of its Affiliates may at any time have against a beneficiary or any transferee of any Letter of Credit (or any Persons or entities for whom any such transferee may be acting), Lender, or any other Person, whether in connection with the Agreement, the Letter of Credit, the transactions contemplated herein or therein, or any unrelated transaction (including any underlying transaction between Borrower or any of its Affiliates and the beneficiary for which the Letter of Credit was procured);

(iii) any draft, demand, certificate or any other document presented under any Letter of Credit proving to be forged, fraudulent, invalid, or insufficient in any respect, or any statement therein being untrue or inaccurate in any respect;

(iv) payment by Lender (except as otherwise expressly provided in paragraph (i)(ii)(C) below) under any Letter of Credit or guaranty thereof against presentation of a demand, draft, certificate, or other document that does not comply with the terms of such Letter of Credit or such guaranty;

(v) the fact that a Default or an Event of Default has occurred and is continuing; or

(vi) any other circumstance or event whatsoever, whether or not similar to any of the foregoing.

(h) Indemnification: Nature of Lender's Duties.

(i) In addition to amounts payable as elsewhere provided in the Agreement, Borrower hereby agrees to pay and to protect, indemnify, and save harmless Lender from and against any and all claims, demands, liabilities, damages, losses, costs, charges, and expenses (including reasonable attorneys' fees and allocated costs of internal counsel) that Lender may incur or be subject to as a consequence, direct or indirect, of (A) the issuance of any Letter of Credit or guaranty thereof, or (B) the failure of Lender seeking indemnification or of Lender to honor a demand for payment under any Letter of Credit or guaranty thereof as a result of any act or omission, whether rightful or wrongful, of any present or future de jure or de facto government or Governmental Authority, in each case other than to the extent as a result of the gross negligence or willful misconduct of Lender (as finally determined by a court of competent jurisdiction).

(ii) As between Lender and Borrower, Borrower assumes all risks of the acts and omissions of, or misuse of any Letter of Credit by, beneficiaries of any Letter of Credit. In furtherance and not in limitation of the foregoing, to the fullest extent permitted by Laws, Lender shall not be responsible for: (A) the form, validity, sufficiency, accuracy, genuineness, or legal effect of any document issued by any party in connection with the application for and issuance of any Letter of Credit, even if it should in fact prove to be in any or all respects invalid, insufficient, inaccurate, fraudulent, or forged; (B) the validity or sufficiency of any instrument transferring or assigning or purporting to transfer or assign any Letter of Credit or the rights or benefits thereunder or proceeds thereof, in whole or in part, that may prove to be invalid or ineffective for any reason; (C) failure of the beneficiary of any Letter of Credit to comply fully and strictly with the conditions required in order to demand payment under such Letter of Credit; provided that, in the case of any payment by Lender under any Letter of Credit or guaranty thereof, Lender shall be liable for direct damages (as opposed to consequential or punitive damages, claims in respect of which are hereby waived by the Borrower to the extent permitted by Law) to the extent such payment was made solely as a result of its

gross negligence or willful misconduct (as finally determined by a court of competent jurisdiction) in determining that the demand for payment under such Letter of Credit or guaranty thereof complies on its face with any applicable requirements for a demand for payment under such Letter of Credit or guaranty thereof; (D) errors, omissions, interruptions, or delays in transmission or delivery of any messages, by mail, cable, telegraph, telex, or otherwise, whether or not they may be in cipher; (E) errors in interpretation of technical terms; (F) any loss or delay in the transmission or otherwise of any document required in order to make a payment under any Letter of Credit or guaranty thereof or of the proceeds thereof; (G) the credit of the proceeds of any drawing under any Letter of Credit or guaranty thereof; and (H) any consequences arising from causes beyond the control of Lender. None of the above shall affect, impair, or prevent the vesting of any of Lender's rights or powers hereunder or under the Agreement.

(iii) Nothing contained herein shall be deemed to limit or to expand any waivers, covenants, or indemnities made by Borrower in favor of Lender in any letter of credit application, reimbursement agreement, or similar document, instrument, or agreement between Borrower and Lender.

(iv) The provisions of this paragraph (i) shall survive the payment of the Obligations and any termination of the Agreement.

(i) Letters of Credit Issued for account of Subsidiaries. Notwithstanding that a Letter of Credit issued or outstanding hereunder is in support of any obligations of, or is for the account of, a Subsidiary, the Borrower shall be obligated as set forth herein for any and all drawings under such Letter of Credit. The Borrower hereby acknowledges that the issuance of Letters of Credit for the account of Subsidiaries inures to the benefit of the Borrower, and that the Borrower's business derives substantial benefits from the businesses of such Subsidiaries.

(j) Rules of Practice. Unless otherwise expressly agreed by Lender and the Borrower when a Letter of Credit is issued by it, (i) the rules of the International Standby Practices, ICC Publication No. 590 (as amended, supplemented, restated, and/or republished from time to time, the "ISP") shall apply to each standby Letter of Credit, and (ii) the rules of the Uniform Customs and Practice for Documentary Credits, International Chamber of Commerce Publication No. 600 (as amended, supplemented, restated, and/or republished from time to time, the "UCP") shall apply to each commercial Letter of Credit. Notwithstanding the foregoing, Lender shall not be responsible to the Borrower for, and Lender's rights and remedies against the Borrower shall not be impaired by, any action or inaction of Lender required or permitted under any law, order, or practice that is required or permitted to be applied to any Letter of Credit or the Agreement, including the Laws or any order of a jurisdiction where Lender or the beneficiary is located, the practice stated in the ISP or UCP, as applicable, or in the decisions, opinions, practice statements, or official commentary of the International Chamber of Commerce Banking Commission, the Bankers Association for Finance and Trade, or the Institute of International Banking Law & Practice, whether or not any Letter of Credit chooses such laws or practice rules.

3.02 **Reimbursement Agreement.**

In connection with the execution of this Agreement and prior to the issuance of any Letter of Credit, Borrower and Lender will enter into a Letter of Credit Reimbursement Agreement (the “**Reimbursement Agreement**”). To the extent any of the terms of this Agreement conflict with the terms of the Reimbursement Agreement, the terms of this Agreement will control.

4. **INTEREST, FEES AND CHARGES.**

4.01 **Interest Rate.**

Each Reference Rate Loan shall bear interest on the outstanding principal amount thereof from the applicable borrowing date at a rate per annum equal to the Reference Rate *plus* the Applicable Margin. Each Tranche Rate Loan shall bear interest on the outstanding principal amount thereof for each Interest Period at a rate per annum equal to the Tranche Rate for such Interest Period *plus* the Applicable Margin.

4.02 **Default Interest Rate.**

During a Default Period, at Lender’s option, each Loan shall bear interest at the Default Rate, effective as of the date of election by Lender, which interest shall be payable on demand. The decision of Lender to not impose the Default Rate shall be made by the Lender, in its sole discretion, and shall not be a waiver of any of its other rights and remedies.

4.03 **Interest Payments.**

Interest on Reference Rate Loans shall be due and payable on the first day of each month in arrears and on the Termination Date. Interest accruing on each Tranche Rate Loan shall be due and payable in arrears on the last day of each Interest Period and on the Termination Date.

4.04 **Tranche Rate Provisions.**

(a) **Tranche Rate Election.** Subject to the provisions of this Agreement, Borrower may request that Loans permitted to be made hereunder be Tranche Rate Loans and that outstanding portions of Loans made hereunder be converted to Tranche Rate Loans. Each request for a Tranche Rate Loan shall be irrevocable and Borrower shall be bound thereby. In the case of any conversion of a Reference Rate Loan to a Tranche Rate Loan, any conversion of an existing Tranche Rate Loan to a new Tranche Rate Loan with a different Interest Period, or any conversion of a Tranche Rate Loan to a Reference Rate Loan, such election must be made pursuant to a Notice of Conversion. In addition to the other provisions of this Agreement, as a condition to any Tranche Rate election hereunder, on or before the date on which the applicable Tranche Rate Loan is to be advanced or converted hereunder, in each case in accordance with Lender’s loan policies and procedures periodically in effect, Borrower shall notify Lender of each of the following: (i) the requested amount of such Tranche Rate Loan, (ii) the Interest Period that Borrower has elected to apply to such Tranche Rate Loan, and (iii) the date of the requested advance or conversion. In the absence of a Notice of Conversion submitted to Lender not later than noon Cincinnati, Ohio time (or such later time acceptable to Lender in its sole discretion) on the Business Day on which such Interest Period expires, the Borrower will be deemed to have requested that the Tranche Rate Loan

then maturing be continued as a Tranche Rate Loan for the same Interest Period commencing on the date on which such expiring Interest Period ends. If Borrower requests a new Loan but fails to submit a Notice of Borrowing as required by this paragraph, and if Borrower would otherwise be entitled to elect a Tranche Rate Loan under the terms of this Agreement, Borrower will be deemed to have elected to have such principal amount bear interest as a Tranche Rate Loan with a Tranche Interest Period of one month, commencing on the date of the advance. Unless otherwise permitted by Lender in its sole discretion: (A) in no event may the last day of any Interest Period exceed the Maturity Date, (B) in no event may any new Interest Period commence with respect to any Tranche Rate Loan requested to be converted hereunder prior to the expiration of the applicable Interest Period then in effect with respect to such Tranche Rate Loan, (C) there may be no more than five Tranche Rate Loans outstanding at any one time, and (D) if required by Lender in its sole discretion at any time and from time to time, each request for a Tranche Rate Loan, whether by original issuance or conversion, shall be in a minimum amount of \$25,000.

(b) Temporary Replacement of the Tranche Rate and Tenor Replacement. In the event, prior to commencement of any Interest Period relating to a Tranche Rate Loan, Lender shall determine that no Successor Rate has been determined in accordance with Section 4.04(c) and either: (i) the Tranche Rate is unavailable, unrepresentative, or unreliable, (ii) the Tranche Rate as determined by Lender will not adequately and fairly reflect the cost to Lender of funding the Tranche Rate Loans for such Interest Period, or (iii) the making or funding of Tranche Rate Loans has become impracticable; then, in any such case, Lender shall promptly provide notice of such determination to Borrower (which shall be conclusive and binding on the Borrower absent manifest error), and (A) any request for a Tranche Rate Loan or for a conversion to or continuation of a Tranche Rate Loan shall be automatically withdrawn and shall be deemed a request for a Reference Rate Loan, (B) each Tranche Rate Loan will automatically, on the last day of the then current Interest Period relating thereto, become a Reference Rate Loan, and (C) the obligations of Lender to make Tranche Rate Loans shall be suspended until Lender determines that the circumstances giving rise to such suspension no longer exist, in which event Lender shall so notify Borrower. If a Successor Rate has been determined in accordance with Section 4.04(c) and Lender determines that any of the circumstances described in clauses (i)-(iii) of this paragraph has occurred, then clauses (A)-(C) of this paragraph shall apply as if each reference to Tranche Rate therein were a reference to the Successor Rate.

At any time (including in connection with the implementation of a Successor Rate), the Lender may remove any tenor of a Tranche Rate that is unavailable, non-representative, or not in compliance with or aligned with the International Organization of Securities Commissions (IOSCO) Principles for Financial Benchmarks, in the Lender's sole discretion, for Tranche Rate settings; *provided* however that the Lender may reinstate such previously removed tenor for Tranche Rate settings, if the Lender determines in its sole discretion that such tenor has become available and representative again.

(c) Tranche Rate Replacement.

Notwithstanding anything to the contrary herein or in any other Loan Document (and any Rate Contract shall be deemed not to be a "Loan Document" for purposes of this Section 4.04(c)), but without limiting Section 4.04(b) above, if the Lender determines (which determination shall be conclusive and binding on Borrower absent manifest error) that any of the circumstances described

in Section 4.04(b)(i)-(iii) has occurred and is unlikely to be temporary or the administrator of the Tranche Rate or a Governmental Authority having or purporting to have jurisdiction over the Lender or such administrator has made a public statement identifying a specific date (the “**Scheduled Unavailability Date**”) after which the Tranche Rate will no longer be representative or made available or used for determining the interest rate of loans or otherwise cease or will no longer be in compliance or aligned with the International Organization of Securities Commissions (IOSCO) Principles for Benchmarks, and there is no successor administrator satisfactory to the Lender, then on a date and time determined by the Lender (the “**Tranche Rate Replacement Date**”), but no later than the Scheduled Unavailability Date, the Tranche Rate will be replaced hereunder and under any other Loan Document with Daily Simple SOFR.

(i) If the Successor Rate is based on Daily Simple SOFR, interest shall be due and payable on a monthly basis.

(ii) Notwithstanding anything to the contrary herein, if the Lender determines that Daily Simple SOFR is not available and administratively feasible prior to the Tranche Rate Replacement Date, or if any of the circumstances described in Section 4.04(b) (i) with regard to the Tranche Rate has occurred with respect to a Successor Rate then in effect, the Lender may amend this Agreement solely for the purpose of replacing the Tranche Rate or any then current Successor Rate in accordance with this Section 4.04(c) with another alternative benchmark rate and a Spread Adjustment, giving due consideration to any evolving or then existing convention for similar U.S. dollar denominated credit facilities and any recommendations of a relevant Governmental Authority, and which Spread Adjustment or method for calculating such Spread Adjustment shall be published on an information service as selected by the Lender from time to time in its reasonable discretion. Any such alternative benchmark rate and Spread Adjustment shall constitute a Successor Rate hereunder. Any such amendment shall become effective on the date set forth in a written notice provided by the Lender to the Borrower (such date to be five or more Business Days after the date of such notice).

(iii) The Lender will promptly (in one or more notices) notify the Borrower of the implementation of any Successor Rate. Any Successor Rate shall be applied in a manner consistent with market practice; provided that to the extent such market practice is not administratively feasible for the Lender, such Successor Rate shall be applied in a manner as otherwise reasonably determined by the Lender.

(iv) In connection with the implementation and administration of a Successor Rate (including, without limitation, pursuant to Section 4.04(c)(viii) below), the Lender will have the right to make Conforming Changes from time to time and, notwithstanding anything to the contrary herein or in any other Loan Document, any amendments implementing such Conforming Changes will become effective without any further action or consent by Borrower; provided that the Lender shall provide notice of such Conforming Changes to the Borrower reasonably promptly after such amendment becomes effective.

(v) Notwithstanding anything to the contrary herein, if the Successor Rate would be less than the Floor, the Successor Rate will be deemed to be the Floor for the purposes of this Agreement and the other Loan Documents. Further, if the interest rate to be replaced is rounded upwards to the next 1/8th of 1% under the terms of this Agreement or any Loan Document,

the Successor Rate shall also be rounded up to the next 1/8th; *provided further* that this provision governing rounding shall not apply if the Borrower has a Hedging Agreement in effect with respect to all or part of a Loan.

(vi) The Lender does not warrant or accept any responsibility for, and shall not have any liability with respect to, the administration, submission, or any other matter related to the Tranche Rate or any Successor Rate, including the selection of such rate, any related Spread Adjustment, or any Conforming Changes, or whether the composition or characteristics of any Successor Rate and Spread Adjustment or Conforming Changes will be similar to, or produce the same value or economic equivalence of, the initial Tranche Rate.

(vii) Notwithstanding anything to the contrary contained herein, if, after the Closing Date, the Borrower enters into a Hedging Agreement with respect to all or part of an Advance and the floating interest rate under the Hedging Agreement is Daily Simple SOFR, the Lender may replace the Tranche Rate hereunder with Daily Simple SOFR and a Spread Adjustment without the consent of any other party hereto; *provided further* that, if subsequent thereto, the Lender and Borrower amend such Hedging Agreement to include, or terminate such Hedging Agreement and enter into a new Hedging Agreement with, a floating interest rate thereunder of Term SOFR, then the Lender may further replace Daily Simple SOFR hereunder with Term SOFR (and a Spread Adjustment, if applicable) hereunder without the consent of any other party hereto; and, in either such event, (A) Daily Simple SOFR or Term SOFR, as applicable, shall be a Successor Rate hereunder, and (B) the Lender shall provide written notice thereof to the Borrower.

(d) Illegality. Notwithstanding any other provisions hereof, if any Law shall make it unlawful for Lender to make, fund or maintain Tranche Rate Loans, Lender shall promptly give notice of such circumstances to Borrower. In such an event, (i) the commitment of Lender to make Tranche Rate Loans, continue Tranche Rate Loans as Tranche rate Loans or convert Reference Rate Loans to Tranche Rate Loans shall be immediately suspended and (ii) all outstanding Tranche Rate Loans shall be converted automatically to Reference Rate Loans on the last day of the Interest Period thereof or at such earlier time as may be required by Law.

(e) Tranche Rate Breakage Fee. Upon (i) any default by Borrower in making any borrowing of, conversion into or conversion of any Tranche Rate Loan following Borrower's delivery to Lender of any applicable request for a Tranche Rate Loan or Notice of Conversion or (ii) any payment of a Tranche Rate Loan on any day that is not the last day of the Interest Period applicable thereto (regardless of the source of such prepayment and whether voluntary, by acceleration or otherwise), Borrower shall promptly pay Lender an amount equal to the amount of any losses, expenses and liabilities (including any loss (including interest paid) in connection with the re-employment of such funds) that Lender sustains as a result of such default or such payment.

(f) Increased Costs. If, after the Closing Date, any Change in Law: (i) shall impose, modify or deem applicable any reserve (including any reserve imposed by the Board of Governors of the Federal Reserve System, or any successor thereto, but excluding any reserve included in the determination of the Tranche Rate pursuant to the provisions of this Agreement), special deposit, compulsory loan, insurance charge or similar requirement against assets of, deposits with or for the account of, or credit extended or participated in by Lender, or (ii) shall

impose on Lender any other condition affecting its Tranche Rate Loans, any of its notes issued pursuant hereto (if any) or its obligation to make Tranche Rate Loans; and the result of anything described in these clauses (i) and (ii) above is to increase the cost to (or to impose a cost on) Lender of making or maintaining any Tranche Rate Loan, or to reduce the amount of any sum received or receivable by Lender under this Agreement or under any of its notes issued pursuant hereto (if any) with respect thereto, then upon demand by Lender, Borrower shall promptly pay directly to Lender such additional amount as will compensate Lender for such increased cost or such reduction, so long as such amounts have accrued on or after the day that is nine months prior to the date on which Lender first made demand therefor (except that, if the occurrence giving rise to such increased cost or reduction is retroactive, then the nine month period referred to above shall be extended to include the period of retroactive effect thereof).

(g) Tranche Rate Conforming Changes. In connection with the use or administration of the Tranche Rate, the Lender will have the right to make Conforming Changes from time to time and, notwithstanding anything to the contrary herein or in any other Loan Document, any amendments implementing such Conforming Changes will become effective without any further action or consent of any other party to this Agreement or any other Loan Document. The Lender will promptly notify the Borrower of the effectiveness of any Conforming Changes in connection with the use or administration of the Tranche Rate.

4.05 Fees And Charges.

(a) Closing Fee. Borrower shall pay to Lender a closing fee of \$72,500.00, which fee shall be fully earned and payable on the date of disbursement of the initial Loans hereunder. In addition, Borrower shall pay to Lender a closing fee of 0.25% of any increase approved by Lender pursuant to Borrower's request for a Revolving Loan Limit Increase, which fee shall be fully earned and payable on the date of such Revolving Loan Limit Increase.

(b) Unused Line Fee. Borrower shall pay to Lender an unused line fee of 0.25% per annum of the difference between (i) the Maximum Revolving Loan Limit and (ii) the sum of (A) the average daily balance of the Revolving Loans plus (B) the Letter of Credit Obligations for each month, which fee shall be fully earned by Lender and payable monthly in arrears on the first Business Day of each month. Said fee shall be calculated on the basis of a 360 day year.

(c) Letter of Credit Fee. Borrower shall remit to Lender a Letter of Credit fee equal to the Letter of Credit Fee Amount, which fee shall be payable monthly in arrears on the last Business Day of each month for commercial Letters of Credit and payable in advance at issuance and annually thereafter for standby Letters of Credit. The Letter of Credit Fee shall be calculated on the basis of a 360 day year.

(d) Termination Fee. If, during the term of this Agreement, Borrower (x) prepays all of the Obligations and terminates the Lender's commitment to make Loans or (y) the Obligations are accelerated under **Section 13.02**, then Borrower shall pay to Lender as a termination fee, in addition to the payment of all other Obligations, an amount equal to (i) 2.0% of the Facility Amount if such prepayment occurs four years or more prior to the Maturity Date, or (ii) 1.0% of the Facility Amount if such prepayment occurs less than four years, but at least three years prior to the Maturity Date.

(e) Costs and Expenses. Borrower shall reimburse Lender for all reasonable and documented costs and expenses, including expenses and fees of third-party service providers, legal expenses and reasonable and documented attorneys' fees for outside counsel, incurred by Lender in connection with the (i) documentation and consummation of this transaction, any Bank Product Agreement and any other transactions between Borrower and Lender in connection with any credit, loan or lease provided by Lender to Borrower, including amendments to this Agreement or any Loan Document, Uniform Commercial Code and other public record searches and filings, overnight courier or other express or messenger delivery, appraisal costs, surveys, title insurance and environmental audit or review costs; (ii) collection, protection or enforcement of any rights in or to the Collateral; (iii) collection of any Obligations; (iv) the realization upon, disposition or sale of, any or all of the Collateral; (v) administration, monitoring, processing and servicing of the Loans, the Loan Documents, and the Collateral; and (vi) enforcement of any of Lender's rights under this Agreement or any other Loan Document (including any costs and expenses of any third party provider engaged by Lender for such purposes). Borrower shall also pay all normal service charges with respect to all accounts maintained by Borrower with Lender and any additional services requested by Borrower from Lender.

(f) Capital Adequacy Charge. If Lender shall have determined that any Change in Law affecting Lender or any lending office of Lender or Lender's holding company, if any, regarding capital or liquidity requirements, does or shall have the effect of reducing the rate of return on Lender's (or Lender's holding company, if any) does or shall have the effect of reducing the rate of return on Lender's capital as a consequence of this Agreement, Lender's commitment, the Loans made or Letters of Credit issued by Lender or Lender's obligations hereunder to a level below that which Lender (or Lender's holding company, if any) could have achieved but for such adoption, change or compliance (taking into consideration Lender's policies with respect to capital adequacy and liquidity) by a material amount, then from time to time, after submission by Lender to Borrower of a written demand therefor together with the certificate described below, Borrower shall pay to Lender within ten (10) days of demand such additional amount or amounts as will compensate Lender for such reduction, such written demand to be made promptly following such determination. A certificate of Lender claiming entitlement to payment as set forth above shall be conclusive in the absence of manifest error. Such certificate shall set forth the nature of the occurrence giving rise to such reduction, the amount of the additional amount or amounts to be paid to Lender, and the method by which such amount was determined. In determining such amount, Lender may use any reasonable averaging and attribution method, applied on a non-discriminatory basis; provided that if the Lender fails to give such notice within one hundred eighty (180) days after it obtains knowledge of such Change in Law, the Lender shall, with respect to compensation payable pursuant to this Section, only be entitled to payment for costs incurred from and after the date one hundred eighty (180) days prior to the date that the Lender does give such notice. A certificate of Lender claiming entitlement to payment as set forth above shall be conclusive in the absence of manifest error. Such certificate shall set forth the nature of the occurrence giving rise to such reduction, the amount of the additional amount or amounts to be paid to Lender, and the method by which such amount was determined. In determining such amount, Lender may use any reasonable averaging and attribution method, applied on a non-discriminatory basis.

4.06 **Maximum Interest.**

It is the intent of the parties that the rate of interest and other charges to Borrower under the Loan Documents shall be lawful; therefore, if for any reason the interest or other charges payable under this Agreement are found by a court of competent jurisdiction, in a final determination, to exceed the limit which Lender may lawfully charge Borrower, then the obligation to pay interest and other charges shall automatically be reduced to such limit and, if any amount in excess of such limit shall have been paid, then such amount shall be refunded to Borrower.

4.07 **Authorization to Make Revolving Loans.**

Borrower hereby authorizes Lender, in its sole discretion, to charge any of Borrower's accounts or advance Revolving Loans to make any payments of principal, interest, fees, costs or expenses required to be made under the Loan Documents.

4.08 **Computation of Interest and Fees.**

All interest accruing on the outstanding principal amount of the Loans and fees hereunder outstanding from time to time shall be calculated on the basis of actual number of days elapsed in a 360-day year, which results in more interest charged than if interest were calculated based on a 365-day year.

4.09 **Taxes.**

(a) Any and all payments by Borrower to or on account of any obligation of Borrower hereunder or under any other Loan Document shall be made free and clear of and without reduction or withholding for any Indemnified Taxes or Other Taxes, *provided* that, if Borrower shall be required by any applicable law to deduct any Indemnified Taxes (including any Other Taxes) from such payments, then: (i) the sum payable shall be increased as necessary so that after making all required deductions (including deductions applicable to additional sums payable under this **Section 4.09(a)**), Lender receives an amount equal to the sum it would have received had no such deductions been made; (ii) Borrower shall make such deductions; and (iii) Borrower shall timely pay the full amount deducted to the relevant Governmental Authority in accordance with applicable law.

(b) Without limiting the provisions of **Section 4.09(a)**, Borrower shall timely pay any Other Taxes to the relevant Governmental Authority in accordance with applicable law.

(c) Borrower shall indemnify Lender, within ten days after written demand therefor, for the full amount of any Indemnified Taxes or Other Taxes (including Taxes imposed or asserted on or attributable to amounts payable under this **Section 4.09**) paid by Lender and any penalties, interest and reasonable expenses arising therefrom or with respect thereto, whether or not such Indemnified Taxes or Other Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to Borrower by Lender shall be conclusive absent manifest error.

(d) If requested in writing by Lender, Borrower shall deliver to Lender, as soon as practicable after any payment of Indemnified Taxes or Other Taxes by Borrower to a

Governmental Authority, the original or a certified copy of a receipt issued by such Governmental Authority evidencing such payment, a copy of the return reporting such payment or other evidence of such payment reasonably satisfactory to Lender.

(e) If Lender receives a refund of any Taxes or Other Taxes as to which it has been indemnified by Borrower or with respect to which Borrower has paid additional amounts pursuant to this **Section 4.09**, it shall pay to Borrower an amount equal to such refund (but only to the extent of indemnity payments made, or additional amounts paid, by Borrower under this **Section 4.09** with respect to the Taxes or Other Taxes giving rise to such refund), net of all out-of-pocket expenses of Lender and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund); *provided* that Borrower, upon the request of Lender, agrees to repay the amount paid over to Borrower (*plus* any penalties, interest or other charges imposed by the relevant Governmental Authority) to Lender in the event Lender is required to repay such refund to such Governmental Authority. This subsection (e) shall not be construed to require Lender to make available its tax returns (or any other information relating to its taxes that it deems confidential) to Borrower or any other Person.

4.10 Payments Generally.

All payments to be made by the Borrower shall be made without condition or deduction for any counterclaim, defense, recoupment or setoff. Except as otherwise expressly provided herein, all payments by the Borrower hereunder shall be made to Lender in Dollars and in immediately available funds not later than 2:00 p.m. on the date specified herein. All payments received by Lender after 2:00 p.m. shall be deemed received on the next succeeding Business Day and any applicable interest or fee shall continue to accrue. If any payment to be made by the Borrower shall come due on a day other than a Business Day, then payment shall be made on the next following Business Day, and such extension of time shall be reflected on computing interest or fees, as the case may be.

5. COLLATERAL.

5.01 Grant of Security Interest to Lender.

As security for the payment of all Loans now or in the future made by Lender to Borrower hereunder and for the payment or other satisfaction of all other Obligations, Borrower hereby grants to Lender a continuing security interest in all of Borrower's right, title, and interest in the following property, whether now or hereafter existing, acquired or arising and wherever now or hereafter located: (a) all Accounts (whether or not Eligible Accounts) and all Goods whose sale, lease or other disposition by Borrower has given rise to Accounts and have been returned to, or repossessed or stopped in transit by, Borrower; (b) all Chattel Paper, Instruments, Documents and General Intangibles (including all patents, patent applications, trademarks, trademark applications, trade names, trade secrets, goodwill, copyrights, copyright applications, registrations, licenses, software, franchises, customer lists, tax refund claims, claims against carriers and shippers, guarantee claims, contract rights, payment intangibles, security interests, security deposits and rights to indemnification); (c) all Inventory (whether or not Eligible Inventory); (d) all Goods (other than Inventory), including Equipment, vehicles and Fixtures; (e) all Goods on consignment; (f) all Investment Property; (g) all Deposit Accounts, bank accounts, deposits and cash; (h) all

Letter-of-Credit Rights; (i) Commercial Tort Claims listed on Schedule 5.01; (j) any other property of Borrower now or hereafter in the possession, custody or control of Lender or any agent or any parent, affiliate or Subsidiary of Lender or any participant with Lender in the Loans, for any purpose (whether for safekeeping, deposit, collection, custody, pledge, transmission or otherwise); and (k) all additions and accessions to, substitutions for, and replacements, products and Proceeds of the foregoing property, including proceeds of all insurance policies insuring the foregoing property, and all of Borrower's books and records relating to any of the foregoing and to Borrower's business; provided, that the Collateral shall not include any Excluded Property.

5.02 Other Security.

Lender, in its sole discretion, without waiving or releasing any obligation, liability or duty of Borrower under the Loan Documents or any Event of Default, may at any time or times hereafter, but shall not be obligated to, pay, acquire or accept an assignment of any security interest, lien, encumbrance or claim asserted by any Person in, upon or against the Collateral, provided, that Lender may take such actions with respect to Permitted Liens only during a Default Period. All sums paid by Lender in respect thereof and all costs, fees and expenses including reasonable attorney fees, all court costs and all other charges relating thereto incurred by Lender shall constitute Obligations, payable by Borrower to Lender on demand and, until paid, shall bear interest at the highest rate then applicable to Loans hereunder.

5.03 Possessory Collateral.

Promptly upon Borrower's receipt of any portion of the Collateral evidenced by an agreement, Instrument or Document, including any Tangible Chattel Paper and any Investment Property consisting of certificated securities with a value in excess of \$100,000 at any time outstanding, Borrower shall deliver the original thereof to Lender together with an appropriate endorsement or other specific evidence of assignment thereof to Lender (in form and substance acceptable to Lender). If an endorsement or assignment of any such items shall not be made for any reason, Lender is hereby irrevocably authorized, as Borrower's attorney and agent-in-fact, to endorse or assign the same on Borrower's behalf.

5.04 Electronic Chattel Paper.

To the extent that Borrower obtains or maintains any Electronic Chattel Paper, Borrower shall create, store and assign the record or records comprising the Electronic Chattel Paper in aggregate amount in excess of \$100,000 at any time outstanding in such a manner that (a) a single authoritative copy of the record or records exists which is unique, identifiable and except as otherwise provided in clauses (d), (e) and (f) below, unalterable, (b) the authoritative copy identifies Lender as the assignee of the record or records, (c) the authoritative copy is communicated to and maintained by the Lender or its designated custodian, (d) copies or revisions that add or change an identified assignee of the authoritative copy can only be made with the participation of Lender, (e) each copy of the authoritative copy and any copy of a copy is readily identifiable as a copy that is not the authoritative copy and (f) any revision of the authoritative copy is readily identifiable as an authorized or unauthorized revision.

5.05 Possession of Collateral.

Until otherwise notified to the contrary in writing by Lender during a Default Period, Borrower shall have the right, except as otherwise provided in this Agreement, to make dispositions of assets as permitted pursuant to **Section 11.01**, and in the ordinary course of Borrower's business, to (a) sell, lease or furnish under contracts of service any of Borrower's Inventory normally held by Borrower for any such purpose; (b) use and consume any raw materials, work in process or other materials normally held by Borrower for such purpose; and (c) dispose of worn-out, obsolete or unuseful assets so long as, to the extent required under **Section 2.07(f)(ii)** all of the Net Cash Proceeds thereof are paid to Lender for application to the Obligations (except (i) for such proceeds which are required to be delivered to the holder of a Permitted Lien which is prior in right of payment to the Obligations, and (ii) to the extent not required to be so paid under **Section 2.07(f)(ii)** such proceeds are used by Borrower to replace such assets); provided, however, that a sale in the ordinary course of business shall not include any transfer or sale in satisfaction, partial or complete, of a debt owed by Borrower.

5.06 Pledged Collateral.

(a) Registration in Nominee Name; Denominations. Borrower hereby agrees that without limiting Article 5, during a Default Period, Lender shall have the right (in its sole and absolute discretion) to hold, where applicable, Pledged Collateral in the Lender's own name as pledgee, the name of its nominee (as pledgee or as sub-agent) or the name of Borrower, endorsed or assigned, where applicable, in blank or in favor of Lender; provided, that at such time as the applicable Default Period is no longer continuing, all such Pledged Collateral shall revert to the name of the Borrower, and the Lender shall, at Borrower's request and sole cost and expense, take all actions reasonably necessary to effectuate the same.

(b) Distributions. So long as no Default Period then exists, the Borrower shall be entitled to receive any and all dividends, interest or principal in respect of Pledged Collateral provided all such payments received with respect thereto are deposited into an account maintained with Lender to the extent required pursuant to Section 6.1. During a Default Period, Lender shall have the right to receive (for application to the Obligations) all dividends, interest or principal in respect of Pledged Collateral and to the extent that any thereof is received by or on behalf of Borrower, it shall be held in trust for the benefit of Lender and shall be forthwith delivered to Lender upon demand in the same form as so received (with any necessary endorsement). Any and all money and other property paid over to or received by Lender pursuant to this clause shall be retained by Lender in an account to be established in the name of Lender, under its sole dominion and control and shall be applied to the Obligations in accordance with the terms of this Agreement.

(c) Voting Rights. Subject to the next sentence, Borrower shall be entitled to exercise any and all voting and other consensual rights to which it is entitled in connection with any Pledged Collateral provided such voting and other consensual rights are not exercised in a manner that would knowingly and intentionally result in an Event of Default. During a Default Period and upon three (3) days' prior written notice to Borrower of Lender's intention to exercise such rights, Lender shall be exclusively vested with all rights of Borrower to exercise the voting and consensual rights and powers with respect to Pledged Collateral.

(d) Control. If at any time any Pledged Equity Interests do not constitute Securities or if any Pledged Equity Interests constituting Securities are not evidenced by a Security Certificate, Borrower shall take such actions and execute such documents, at Borrower's expense, as reasonably requested by Lender which are necessary to establish Lender's control thereof or otherwise perfect the security interest therein.

5.07 Assignment of Insurance.

As additional security for the payment and performance of the Obligations, Borrower hereby assigns to the Lender any and all monies (including proceeds of insurance and refunds of unearned premiums) due or to become due under, and all other rights of Borrower with respect to, any and all policies of insurance now or at any time hereafter covering the Collateral or any evidence thereof or any business records or valuable papers pertaining thereto, and Borrower hereby directs the issuer of any such policy to pay all such monies directly to the Lender (subject to Borrower's rights in such monies under **Section 2.07(f)(iii)**). At any time, whether or not a Default Period exists, the Lender may (but need not), in the Lender's name or in Borrower's name, execute and deliver proof of claim, receive all such monies, endorse checks and other instruments representing payment of such monies, and adjust, litigate, compromise or release any claim against the issuer of any such policy. Any monies received as payment for any loss under any insurance policy mentioned above (other than liability insurance policies) or as payment of any award or compensation for condemnation or taking by eminent domain, shall be paid over to the Lender to be applied to the Obligations or released to Borrower pursuant to **Section 2.07(f)(iii)**. Any such repairs, replacements, or restorations shall be effected in a timely manner and Borrower shall make all required repairs, replacements and restorations in a manner that Borrower reasonably believes will cause the operating efficiency and the value thereof to be preserved and maintained in all material respects.

5.08 Preservation of Collateral and Perfection of Security Interests.

(a) Borrower shall, at Lender's reasonable request, at any time and from time to time, authenticate, execute and deliver to Lender such financing statements, documents and other agreements and instruments (and pay the cost of filing or recording the same in all public offices deemed necessary or desirable by Lender) and do such other acts and things or use reasonable efforts to cause third parties to do such other acts and things as Lender may deem necessary or desirable, in its reasonable discretion, in order to establish and maintain a valid, attached and perfected security interest in the Collateral in favor of Lender (free and clear of all other liens, claims, encumbrances and rights of third parties whatsoever, whether voluntarily or involuntarily created, except Permitted Liens) to secure payment of the Obligations, and in order to facilitate the collection of the proceeds of Collateral. Borrower irrevocably hereby makes, constitutes and appoints Lender (and all Persons designated by Lender for that purpose) as Borrower's true and lawful attorney and agent-in-fact to execute and file such financing statements, documents and other agreements and instruments and do such other acts and things as may be necessary to preserve and perfect Lender's security interest in the Collateral. Borrower further ratifies and confirms the prior filing by Lender of any and all financing statements which identify Borrower as debtor, Lender as secured party and any or all Collateral as collateral. Upon the request of Lender, Borrower agrees to execute and deliver to Lender Grants of Security Interest in

Trademarks and Patents and Grants of Security Interest in Copyrights for registered trademarks and patents that constitute Collateral, in forms reasonably acceptable to Lender.

(b) At any time upon Lender's request, Borrower will execute and deliver, or cause to be executed and delivered, such other agreements, documents and instruments as may be required by Lender to perfect the security interests of Lender in those Accounts of an account debtor with its chief executive office or principal place of business in Canada, to the extent that an Event of Default then exists or such Accounts constitute more than five percent (5%) of all Eligible Accounts, in accordance with the applicable laws of the province or territory of Canada in which such chief executive office or principal place of business is located, and take, or cause to be taken, such other and further actions as Lender may request to enable Lender, as secured party with respect thereto, to collect such accounts under the applicable federal, provincial or territorial laws of Canada.

6. COLLECTIONS.

6.01 Lockbox and Blocked Account.

(a) Unless Lender permits Borrower to use Lender's remote deposit system, Borrower shall direct all of its Account Debtors to make all payments on the Accounts directly to the Lock Box. Lender may revoke the Loan Parties' ability to use the remote deposit system at any time.

(b) Borrower shall establish a Blocked Account for the deposit of all payments received by Borrower, including payments received in the Lock Box or payments deposited through Lender's remote deposit system. Borrower shall promptly deposit in the Blocked Account all other payments received by Borrower on Accounts in the identical form in which such payments were received, whether by cash or check. If Borrower, any Affiliate or Subsidiary of Borrower, any shareholder, officer, director, employee or agent of Borrower or any Affiliate or Subsidiary of Borrower, or any other Person acting for or in concert with Borrower shall receive any monies, checks, notes, drafts or other payments relating to or as Proceeds of Accounts or other Collateral, Borrower and each such Person shall promptly upon receipt thereof, shall remit the same (or cause the same to be remitted) in kind to the Blocked Account. The financial institution with which the Blocked Account is established shall acknowledge and agree, in a manner reasonably satisfactory to Lender, that the amounts on deposit in such Lock Box and Blocked Account are the sole and exclusive property of Lender, that such financial institution will follow the instructions of Lender with respect to disposition of funds in the Lock Box and Blocked Account without further consent from Borrower, that such financial institution has no right to setoff against the Lock Box or Blocked Account or against any other account maintained by such financial institution into which the contents of the Lock Box or Blocked Account are transferred, and that such financial institution shall wire, or otherwise transfer in immediately available funds to Lender in a manner satisfactory to Lender, funds deposited in the Blocked Account on a daily basis as such funds are collected.

(c) Borrower agrees that all payments made to such Blocked Account or otherwise received by Lender, whether in respect of the Accounts or as Proceeds of other Collateral or otherwise (except for proceeds of Collateral which are required to be delivered to the holder of a Permitted Lien which is prior in right of payment), will be applied on account of the Obligations in accordance with the terms of this Agreement; provided that, so long as no Default Period is in

effect, payments received by Lender shall not be applied to the unmatured portion of the Tranche Rate Loans, but shall be held in a cash collateral account maintained by Lender, until the earlier of (i) the last Business Day of the Interest Period applicable to such Tranche Rate Loan and (ii) the occurrence of an Event of Default; provided further, that so long as no Default Period is in effect, the immediately available funds in such cash collateral account may be disbursed, at Borrower's discretion, to Borrower so long as after giving effect to such disbursement, Borrower's Availability, equals or exceeds the outstanding Revolving Loans at such time.

(d) Borrower agrees to pay all customary fees, costs and expenses in connection with opening and maintaining the Lock Box and Blocked Account. All of such fees, costs and expenses if not paid by Borrower, may be paid by Lender and in such event all amounts paid by Lender shall constitute Obligations hereunder, shall be payable to Lender by Borrower upon demand, and, until paid, shall bear interest at the highest rate then applicable to Loans hereunder.

(e) All checks, drafts, instruments and other items of payment or Proceeds of Collateral shall be endorsed by Borrower to Lender for application to the Obligations in accordance with the terms of this Agreement, and, if that endorsement of any such item shall not be made for any reason, Lender is hereby irrevocably authorized to endorse the same on Borrower's behalf. For the purpose of this section, Borrower irrevocably hereby makes, constitutes and appoints Lender (and all Persons designated by Lender for that purpose) as Borrower's true and lawful attorney and agent-in-fact (i) to endorse Borrower's name upon said items of payment and/or Proceeds of Collateral and upon any Chattel Paper, Document, Instrument, invoice or similar document or agreement relating to any Account of Borrower or Goods pertaining thereto; (ii) to take control in any manner of any item of payment or Proceeds thereof; and (iii) to have access to any lock box or postal box into which any of Borrower's mail is deposited, and open and process all mail addressed to Borrower and deposited therein.

6.02 Collection of Accounts.

Lender may, at any time and from time to time during a Default Period, whether before or after notification to any Account Debtor and whether before or after the maturity of any of the Obligations, (a) enforce collection of any of Borrower's Accounts or other amounts owed to Borrower by suit or otherwise; (b) exercise all of Borrower's rights and remedies with respect to proceedings brought to collect any Accounts or other amounts owed to Borrower; (c) surrender, release or exchange all or any part of any Accounts or other amounts owed to Borrower, or compromise or extend or renew for any period (whether or not longer than the original period) any indebtedness thereunder; (d) sell or assign any Account of Borrower or other amount owed to Borrower upon such terms, for such amount and at such time or times as Lender deems advisable; (e) prepare, file and sign Borrower's name on any proof of claim in bankruptcy or other similar document against any Account Debtor or other Person obligated to Borrower; and (f) do all other acts and things which are necessary, in Lender's sole discretion, to fulfill Borrower's obligations under the Loan Documents and to allow Lender to collect the Accounts or other amounts owed to Borrower. In addition to any other provision hereof, Lender may at any time, during a Default Period, at Borrower's expense, notify any parties obligated on any of the Accounts to make payment directly to Lender of any amounts due or to become due thereunder.

6.03 Application of Collected Funds.

(a) For purposes of determining the amount of Loans available for borrowing purposes, the balance in the Blocked Account as of the end of a Business Day, shall, without duplication, be applied at the beginning of the next Business Day against the Revolving Loans or the other Obligations to the extent required to be applied to such Obligations under this Agreement).

(b) For purposes of determining the Borrowing Base, that portion of the balance in the Blocked Accounts as of the end of a Business Day consisting of payments on Accounts, shall, without duplication, be applied to reduce the total amount of Eligible Accounts set forth in the most recent Borrowing Base Certificate delivered to Lender by Borrower as the same may have been previously adjusted pursuant to this **Section 6.03(b)**.

(c) For purposes of calculating interest and fees, Lender shall apply all collected and available funds one Business Day after application of the proceeds set forth in **Section 6.03(a)**.

6.04 Account Statements.

On a monthly basis, Lender shall deliver to Borrower an account statement showing all Loans, charges and payments, which shall be deemed final, binding and conclusive upon Borrower unless Borrower notifies Lender in writing, specifying any error therein, within 30 days of the date such account statement is sent to Borrower and any such notice shall only constitute an objection to the items specifically identified.

7. COLLATERAL, AVAILABILITY AND FINANCIAL REPORTS AND SCHEDULES

7.01 Borrowing Base Certificate and Periodic Reports.

(a) Borrower shall deliver to Lender an executed Borrowing Base Certificate on a periodic basis, but in no event less frequently than monthly within 20 days of month-end. Each Borrowing Base Certificate delivered to Lender shall (i) be accompanied by copies of Borrower's sales journal, cash receipts journal and credit memo journal for the relevant period, (ii) reflect the activity of Borrower with respect to Accounts since the most recent Borrowing Base Certificate, (iii) [reserved], (iv) include a list of all Accounts, and (v) contain such additional information concerning Accounts and Inventory as may be reasonably requested by Lender including, but only if specifically requested by Lender, copies of all invoices prepared in connection with such Accounts.

(b) Borrower shall deliver to Lender, in addition to any other reports, as soon as practicable and in any event within 20 days after the end of each calendar month: (i) a detailed trial balance of Borrower's Accounts, in form and substance reasonably satisfactory to Lender including the names and addresses of all Account Debtors of Borrower, and (ii) a summary and detail of accounts payable (such Accounts and accounts payable divided into such time intervals as Lender may require in its sole discretion), including a listing of any held checks.

(c) Borrower shall deliver to Lender within 20 days after the end of each calendar month a perpetual inventory and Lender's standard form of Inventory report then in effect or the form most recently requested from Borrower by Lender, for Borrower by each category of Inventory, together with a description of the change in each category of Inventory since the previous report.

7.02 Compliance Certificate.

Within 30 days after each testing date for the financial covenants in Section 12, Borrower shall deliver to Lender a compliance certificate in the form of Exhibit A, which certifies compliance with the Section 12 and provides a reasonably detailed calculation of the financial covenants contained in Section 12.

7.03 Financial Statements.

Borrower shall deliver to Lender the following financial information, all of which shall be prepared in accordance with GAAP: (a) no later than 30 days after each calendar month, copies of internally prepared financial statements, including balance sheets and statements of income, retained earnings and cash flow of Borrower, and a detailed general ledger trial balance, certified by the Chief Financial Officer of Borrower together with a memorandum comparing variances of each of the foregoing against projections provided to Lender hereunder and an explanation of such variances with such backup documentation as may be required by Lender; and (b) no later than 120 days after the end of each of Borrower's Fiscal Years, audited annual financial statements with an unqualified opinion (other than any qualification issued solely as a result of the upcoming maturity of the Loans) by independent certified public accountants selected by Borrower and reasonably satisfactory to Lender, which financial statements shall be accompanied by copies of any management letters sent to Borrower by such accountants.

7.04 Annual Projections.

As soon as practicable and in any event not less than 30 days after the beginning of each Fiscal Year, Borrower shall deliver to Lender projected balance sheets, statements of income and cash flow for Borrower, for each of the 12 months during such Fiscal Year, which shall include the assumptions used therein, together with appropriate supporting details as reasonably requested by Lender.

7.05 Public Reporting.

Promptly upon the filing thereof, Borrower shall deliver to Lender copies of all registration statements and annual, quarterly, monthly or other regular reports which Borrower or any of its Subsidiaries files with the Securities and Exchange Commission, as well as promptly providing to Lender copies of any reports and proxy statements delivered to its shareholders.

7.06 Other Information.

Promptly following request therefor by Lender, such other business or financial data, reports, appraisals and projections as Lender may reasonably request.

8. TERMINATION.

8.01 Original Term.

This Agreement shall be in effect from the date hereof until the Termination Date. Subject to the payment of the termination fee set forth in **Section 4.05(d)**, if any, Borrower may terminate this Agreement upon 10 days' prior written notice and payment in full of the Obligations (other than contingent Obligations which expressly survive termination of this Agreement and for which no claim has been made).

8.02 Termination of Agreement.

Lender shall not make any additional Loans on or after the Termination Date and this Agreement shall terminate on the date thereafter that the Obligations are paid in full (other than contingent Obligations which expressly survive termination of this Agreement and for which no claim has been made) and all Letters of Credit have expired or been cash collateralized acceptable to Lender (in an amount not to exceed 105% of the face amount of such outstanding Letters of Credit). The termination of this Agreement shall not affect Lender's or any Loan Party's rights, or any of the Obligations having their inception prior to the effective date of such termination, and the provisions hereof shall continue to be fully operative until all transactions entered into, rights or interests created or Obligations have been fully and paid, disposed of, concluded or liquidated. The security interests, Liens, and rights granted to Lender herein shall continue in full force and effect until all of the Obligations have been paid and performed in full. At such time as Borrower has repaid all of the Obligations and this Agreement has terminated, Lender, at Borrower's request, agrees to deliver a release, in form and substance satisfactory to Lender, of all obligations and liabilities of Lender and its officers, directors, employees, agents, parents, Subsidiaries and Affiliates to Borrower (excluding obligations that expressly survive the termination of this Agreement), and if Borrower is obtaining new financing from another lender ("Refinancing Lender"), Borrower shall use commercially reasonable efforts to deliver such lender's indemnification of Lender, in form and substance satisfactory to Lender, for checks or other payment items which Lender has credited to Borrower's account, but which subsequently are dishonored for any reason or for automatic clearinghouse or wire transfers not yet posted to Borrower's account. If Borrower is unable to obtain such indemnification from Refinancing Lender, Lender shall be entitled to require cash collateral from Borrower in an amount satisfactory to Lender in its reasonable discretion to satisfy such dishonored payment items and automatic clearinghouse and wire transfers not yet posted to Borrower's account.

9. REPRESENTATIONS AND WARRANTIES.

Borrower represents and warrants to Lender as follows:

9.01 Financial Statements and Other Information.

The financial statements and other information delivered or to be delivered by Borrower to Lender at or prior to the Closing Date fairly present in all material respects the financial condition of Borrower at the respective dates thereof, subject in the case of unaudited statements to changes resulting from audit and normal year-end adjustment, and there has been no Material Adverse Effect with respect to Borrower since the date of the financial statements delivered to Lender most

recently prior to the Closing Date. All written information now or heretofore furnished by Borrower to Lender is true and correct in all material respects as of the date with respect to which such information was furnished.

9.02 **Locations.**

The office where Borrower keeps its books, records and accounts (or copies thereof) concerning the Collateral, Borrower's principal place of business and all of Borrower's other places of business, locations of Collateral and post office boxes and locations of bank accounts are as set forth on Schedule 9.02 and at other locations within the continental United States (or Mexico if approved by Lender) of which Lender has been advised by Borrower in accordance with **Section 10.02(a)**. The Collateral, including the Equipment (except any part thereof which Borrower shall have advised Lender in writing consists of Collateral normally used in more than one state) is kept, or, in the case of vehicles, based, only at the addresses set forth on Schedule 9.02, and at other locations within the continental United States (or Mexico if approved by Lender) of which Lender has been advised by Borrower in writing in accordance with **Section 10.02(a)**.

9.03 **Loans by Borrower.**

Borrower has not made any loans or advances to any Affiliate or other Person except for advances authorized hereunder to employees, officers and directors of Borrower for travel and other expenses arising in the ordinary course of Borrower's business and loans or advances permitted pursuant to **Section 11.06**.

9.04 **Accounts and Inventory.**

Each Account or item of Inventory which Borrower shall, expressly or by implication, request Lender to classify as an Eligible Account or as Eligible Inventory, respectively, shall, as of the time when such request is made, conform in all respects to the requirements of such classification as set forth in the respective definitions of "Eligible Account" and "Eligible Inventory" as set forth herein.

9.05 **Liens.**

Borrower is the lawful owner of all Collateral now purportedly owned by Borrower, free from all liens, claims, security interests and encumbrances whatsoever, whether voluntarily or involuntarily created and whether or not perfected, other than the Permitted Liens.

9.06 **Organization, Authority and No Conflict.**

Borrower is an entity of the type set forth on Schedule 9.06, duly organized, validly existing and in good standing under the laws of the jurisdiction of its incorporation, organization or formation. Borrower's jurisdiction of incorporation, organization or formation, federal employer identification number and organization identification number are correctly set forth on Schedule 9.06. Borrower is duly qualified and in good standing in all states where the nature and extent of the business transacted by it or the ownership of its assets makes such qualification necessary or, if Borrower is not so qualified, Borrower may cure any such failure without losing any of its rights, incurring any liens or material penalties, or otherwise affecting Lender's rights, in each case to the

extent that failure to so qualify would not be reasonably expected to result in a Material Adverse Effect. Borrower has the right and power and is duly authorized and empowered to enter into, execute and deliver the Loan Documents and perform its obligations hereunder and thereunder. Borrower's execution, delivery and performance of the Loan Documents does not conflict with the provisions of the organizational documents of Borrower, any statute, regulation, ordinance or rule of law, or any agreement, contract or other document binding on Borrower, except for conflicts with agreements, contracts or other documents which would not have a Material Adverse Effect, and Borrower's execution, delivery and performance of the Loan Documents will not result in the imposition of any lien or other encumbrance upon any of Borrower's property (other than Permitted Liens) under any existing indenture, mortgage, deed of trust, loan or credit agreement or other agreement or instrument by which Borrower or any of its property may be bound or affected. If Borrower is a partnership or limited liability company, Borrower has not expressly elected to have its Equity Interests treated as "Securities" under and as defined in Article 8 of the Uniform Commercial Code.

9.07 **Litigation.**

Except as disclosed to Lender on Schedule 9.07, there are no actions or proceedings which are pending or, to the best of Borrower's knowledge, threatened in writing against Borrower which are reasonably likely to have a Material Adverse Effect. Borrower has no Commercial Tort Claims with an aggregate value in excess of \$100,000 pending other than those set forth on Schedule 5.01 and those of which Lender has been advised by Borrower in writing in accordance with **Section 10.02(c)**.

9.08 **Compliance with Laws and Maintenance of Permits.**

Borrower has obtained all governmental consents, franchises, certificates, licenses, authorizations, approvals and permits, the lack of which would have a Material Adverse Effect. Borrower is in compliance in all material respects with all applicable federal, state, local and foreign statutes, orders, regulations, rules and ordinances (including Environmental Laws and statutes, orders, regulations, rules and ordinances relating to taxes, employer and employee contributions and similar items, securities, ERISA or employee health and safety) the failure to comply with which would have a Material Adverse Effect.

9.09 **Affiliate Transactions.**

Except as set forth on Schedule 9.09 or otherwise permitted pursuant to **Section 11.09**, Borrower is not conducting, permitting or suffering to be conducted, transactions with any Affiliate other than transactions with Affiliates for the purchase or sale of Inventory or services in the ordinary course of business pursuant to terms that are no less favorable to Borrower than the terms upon which such transactions would have been made had they been made to or with a Person that is not an Affiliate.

9.10 **Names and Trade Names.**

Borrower's name has always been as set forth on the first page of this Agreement and Borrower uses no trade names, assumed names, fictitious names or division names in the operation of its business, except as set forth on Schedule 9.10.

9.11 **Equipment.**

Except for Permitted Liens, Borrower has good and merchantable title to and ownership of all of its Equipment. No Equipment is a Fixture to real estate unless such real estate is owned by Borrower and is subject to a mortgage in favor of Lender, or if such real estate is leased, is subject to a landlord's agreement in favor of Lender on terms acceptable to Lender, or an accession to other personal property unless such personal property is subject to a first priority lien in favor of Lender (subject to Permitted Liens).

9.12 **Enforceability.**

The Loan Documents to which Borrower is a party are the legal, valid and binding obligations of Borrower and are enforceable against Borrower in accordance with their respective terms subject to limitations as to enforceability which might result from bankruptcy, insolvency, moratorium and other similar laws affecting creditors' rights generally and subject to limitations on the availability of equitable remedies.

9.13 **Solvency.**

Borrower is, after giving effect to the transactions contemplated hereby, solvent, able to pay its debts as they become due, has capital sufficient to carry on its business, now owns property having a value both at fair valuation and at present fair saleable value greater than the amount required to pay its debts, and will not be rendered insolvent by the execution and delivery of the Loan Documents or by completion of the transactions contemplated hereunder or thereunder.

9.14 **Indebtedness.**

Except as set forth on Schedule 9.14 and as permitted by **Section 11.02**, Borrower is not obligated (directly or indirectly), for any loans or other Indebtedness other than the Loans.

9.15 **Margin Security and Use of Proceeds.**

Borrower does not own any margin securities, and none of the proceeds of the Loans hereunder shall be used for the purpose of purchasing or carrying any margin securities or for the purpose of reducing or retiring any indebtedness which was originally incurred to purchase any margin securities or for any other purpose not permitted by Regulation U of the Board of Governors of the Federal Reserve System as in effect from time to time.

9.16 **Parent, Subsidiaries and Affiliates.**

Except as set forth on Schedule 9.16, Borrower has no Parents, Subsidiaries or divisions, nor is Borrower engaged in any joint venture or partnership with any other Person.

9.17 **No Defaults.**

To the Borrower's knowledge, Borrower is not in default under any material contract, lease or commitment to which it is a party or by which it is bound. Borrower does not know of any dispute regarding any contract, lease or commitment which would have a Material Adverse Effect.

9.18 **Employee Matters.**

There are no controversies pending or, to the Borrower's knowledge, threatened in writing between Borrower and any of its employees, agents or independent contractors other than employee grievances arising in the ordinary course of business which would not, in the aggregate, have a Material Adverse Effect, and Borrower is in compliance with all federal and state laws respecting employment and employment terms, conditions and practices except for such non-compliance which would not have a Material Adverse Effect.

9.19 **Intellectual Property.**

(a) **Intellectual Property Rights.** Set forth on Schedule 9.19 is a complete list of all patents, applications for patents, trademarks, applications to register trademarks, service marks, applications to register service marks, mask works, trade dress and copyrights for which Borrower is the owner of record (the "**Intellectual Property**"). Except as disclosed on Schedule 9.19, (i) [reserved], (ii) no Person other than Borrower owns or has been granted any right in the Intellectual Property, (iii) all Intellectual Property is valid, subsisting and enforceable, except to the extent such invalidity or unenforceability would have a Material Adverse Effect and (iv) Borrower has taken all commercially reasonable action necessary to maintain and protect the Intellectual Property. The use of such Intellectual Property by Borrower and the operation of its businesses does not infringe any valid and enforceable intellectual property rights of any other Person, except to the extent any such infringement could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect. To Borrower's knowledge, no slogan or other advertising device, product, process, method, substance, part or other material now employed, or now contemplated to be employed, by Borrower infringes upon any rights held by any other Person, except to the extent any such infringement could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect. Except as specifically disclosed on Schedule 9.19, no claim or litigation regarding any of the foregoing is pending or, to Borrower's knowledge, threatened, and no patent, invention, device, application, principle or any statute, law, rule, regulation, standard or code is pending or, to Borrower's knowledge, proposed, which could, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

(b) **Licensed Intellectual Property.** Borrower does not possess any licenses of Intellectual Property other than (i) as set forth on Schedule 9.19, and (ii) readily available, non-negotiated licenses of computer software and other intellectual property used solely for performing accounting, word processing and similar administrative tasks.

9.20 **Environmental Matters.**

Borrower has not generated, used, stored, treated, transported, manufactured, handled, produced or disposed of any Hazardous Materials, on or off its premises (whether or not owned by it) in any manner which at any time violates in any material respect any Environmental Law or any license, permit, certificate, approval or similar authorization thereunder and the operations of Borrower comply in all material respects with all Environmental Laws and all licenses, permits, certificates, approvals and similar authorizations thereunder. Other than as set forth on Schedule 9.20, there has been no investigation, proceeding, complaint, order, directive, claim, citation or notice by any governmental authority or any other Person, nor is any pending or to the best of

Borrower's knowledge threatened with respect to any non-compliance with or violation of the requirements of any Environmental Law by Borrower or the release, spill or discharge, threatened or actual, of any Hazardous Materials or the generation, use, storage, treatment, transportation, manufacture, handling, production or disposal of any Hazardous Materials or any other environmental, health or safety matter, which affects Borrower or its business, operations or assets or any properties at which Borrower has transported, stored or disposed of any Hazardous Materials. Borrower has no material liability (contingent or otherwise) in connection with a release, spill or discharge, threatened or actual, of any Hazardous Materials or the generation, use, storage, treatment, transportation, manufacture, handling, production or disposal of any Hazardous Materials.

9.21 **ERISA Matters.**

Except as disclosed to the Lender in writing prior to the date hereof, neither Borrower nor any ERISA Affiliate (a) maintains or has maintained any Pension Plan, (b) contributes or has contributed to any Multiemployer Plan or (c) provides or has provided post-retirement medical or insurance benefits with respect to employees or former employees (other than benefits required under Section 601 of ERISA, Section 4980B of the IRC or applicable state law). Neither Borrower nor any ERISA Affiliate has received any notice or has any knowledge to the effect that it is not in full compliance with any of the requirements of ERISA, the IRC or applicable state law with respect to any Plan. No Reportable Event exists in connection with any Pension Plan. Each Plan which is intended to qualify under the IRC is so qualified, and no fact or circumstance exists which may have an adverse effect on the Plan's tax qualified status. Neither Borrower nor any ERISA Affiliate has (i) any accumulated funding deficiency (as defined in Section 302 of ERISA and Section 412 of the IRC) under any Plan, whether or not waived, (ii) any liability under Section 4201 or 4243 of ERISA for any withdrawal, partial withdrawal, reorganization or other event under any Multiemployer Plan or (iii) any liability or knowledge of any facts or circumstances which could result in any liability to the PBGC, the Internal Revenue Service, the Department of Labor or any participant in connection with any Plan (other than routine claims for benefits under the Plan).

9.22 **Anti-Corruption Laws; Anti-Money Laundering Laws; Sanctions; Anti-Terrorism Laws.**

(a) No Loan Party nor any of its Subsidiaries nor, to their knowledge, any director, officer, employee, agent, affiliate or representative of any Loan Party or any of its Subsidiaries has taken any action, directly or indirectly, that would result in a violation by such persons of Anti-Corruption Laws, Anti-Money Laundering Laws or Sanctions.

(b) No Loan Party nor any of its Subsidiaries nor, to their knowledge, any director, officer, employee, agent, affiliate or representative of any Loan Party or any of its Subsidiaries, is a Person that is, or is owned 50% or more, individually or in the aggregate, directly or indirectly, by one or more, or controlled by, a Person that is: (i) subject to any sanctions administered or enforced by OFAC or the U.S. State Department (collectively, "**Sanctions**"), or (ii) located, organized, or resident in a country or territory that is, or whose government is, the target of Sanctions (including Crimea, Cuba, Iran, North Korea, and Syria).

(c) No Loan Party nor any of its Subsidiaries nor, to their knowledge, any director, officer, employee, agent, affiliate or representative of any Loan Party or any of its Subsidiaries, is a Person that is, or is owned or controlled by, a Person that is: (i) an “enemy” or an “ally of the enemy” within the meaning of Section 2 of the Trading with the Enemy Act of the United States (50 U.S.C. App. §§ 1 et seq.), or (ii) in violation of (A) the Trading with the Enemy Act, (B) any of the foreign assets control regulations of the United States Treasury Department (31 CFR, Subtitle B, Chapter V) or any enabling legislation or executive order relating thereto or (C) the Patriot Act (collectively, the “**Anti-Terrorism Laws**”).

(d) Each of the Borrower and its Subsidiaries has implemented and maintains in effect policies and procedures designed to ensure compliance by the Borrower and its Subsidiaries and their respective directors, officers, employees, agents and Affiliates with all Anti-Corruption Laws, Anti-Money Laundering Laws and applicable Sanctions.

9.23 **Disclosure.**

Borrower has disclosed to Lender all agreements, instruments and corporate or other restrictions to which Borrower and any Subsidiary thereof are subject, and all other matters known to them, that, individually or in the aggregate, could reasonably be expected to result in a Material Adverse Effect. No financial statement, material report, material certificate or other material information furnished (whether in writing or orally) by or on behalf of Borrower or any Subsidiary thereof to Lender in connection with the transactions contemplated hereby and the negotiation of this Agreement or delivered hereunder (as modified or supplemented by other information so furnished), taken together as a whole, contains any untrue material misstatement of fact or omits to state any material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading; provided that, with respect to projected financial information, pro forma financial information, estimated financial information and other projected or estimated information, such information was prepared in good faith based upon assumptions believed to be reasonable at the time (it being recognized by the Lenders that projections are not to be viewed as facts and that the actual results during the period or periods covered by such projections may vary from such projections). As of the Closing Date, all of the information included in the Beneficial Ownership Certification is true and correct.

9.24 **Officer/Director Issues.**

Jon Isaac is not an officer or director of any Loan Party.

10. **AFFIRMATIVE COVENANTS.**

Until payment and satisfaction in full of all Obligations (other than contingent indemnification obligations for which no claim has been made) and termination of this Agreement, Borrower covenants and agrees as follows:

10.01 **Maintenance of Records.**

Borrower shall at all times keep accurate and complete (in all material respects) books, records and accounts with respect to all of Borrower’s business activities, in accordance with

GAAP, and shall keep such books, records and accounts, and any copies thereof, only at the addresses indicated for such purpose on Schedule 9.02.

10.02 Notices.

Borrower shall provide written notice to Lender of the following:

(a) Locations. Promptly upon becoming aware of (but in no event less than 10 days prior to the occurrence thereof) the proposed opening of any new place of business or new location of Collateral, the closing of any existing place of business or location of Collateral, any change of in the location of Borrower's books, records and accounts (or copies thereof), the opening or closing of any post office box, the opening or closing of any bank account or, if any of the Collateral consists of Goods of a type normally used in more than one state, the use of any such Goods in any state other than a state in which Borrower has previously advised Lender that such Goods will be used.

(b) Eligible Accounts and Inventory. Promptly upon becoming aware thereof, if any Account or Inventory identified by Borrower to Lender as an Eligible Account or Eligible Inventory becomes ineligible for any reason to the extent (i) representing in excess of ten percent (10%) of Eligible Accounts or Eligible Inventory, as applicable, or (ii) Availability is less than \$500,000.

(c) Litigation and Proceedings. Promptly upon becoming aware thereof, (i) of any litigation, arbitration, governmental investigation or other actions or proceedings which are pending or threatened in writing against Borrower or any Subsidiary of Borrower or to which any of the properties of any thereof is subject which could be reasonably expected to have a Material Adverse Effect, and (ii) of any Commercial Tort Claims of Borrower which may arise of an aggregate value in excess of \$100,000.

(d) Names and Trade Names. Within 10 days of the change of Borrower's name or the use of any trade name, assumed name, fictitious name or division name not previously disclosed to Lender in writing.

(e) ERISA Matters. Promptly upon (i) the occurrence of any Reportable Event which might result in the termination by the PBGC of any Plan covering any officers or employees of Borrower, any benefits of which are, or are required to be, guaranteed by the PBGC, (ii) receipt of any notice from the PBGC of its intention to seek termination of any Plan or appointment of a trustee therefore, (iii) its intention to terminate or withdraw from any Plan, (iv) the institution of any steps by any member of the Controlled Group or any other Person to terminate any Pension Plan, (v) the failure of Borrower or any ERISA Affiliate of any member of the Controlled Group or any other Person to make a required contribution to any Pension Plan (if such failure is sufficient to give rise to a Lien under Section 302(f) of ERISA) or to any Multiemployer Plan, (vi) the taking of any action with respect to a Pension Plan which could result in the requirements that Borrower furnish a bond or other security to the PBGC or such Pension Plan, (vii) the occurrence of any event with respect to any Pension Plan or Multiemployer Plan which could result in the incurrence by any ERISA Affiliate or any member of the Controlled Group of any material liability, fine or penalty (including any claim or demand for withdrawal liability or partial withdrawal from any

Multiemployer Plan), (viii) any material increase in the contingent liability of Borrower with respect to any post-retirement welfare plan benefit, or (ix) any notice that any Multiemployer Plan is in reorganization, that increased contributions may be required to avoid a reduction in plan benefits or the imposition of an excise tax, that any such plan is or has been funded at a rate less than that required under Section 412 of the Code, that any such plan is or may be terminated, or that any such plan is or may become insolvent.

(f) Environmental Matters. Promptly upon becoming aware of any investigation, proceeding, complaint, order, directive, claim, citation or notice with respect to any non-compliance with or violation of the requirements of any Environmental Law by Borrower or the generation, use, storage, treatment, transportation, manufacture handling, production or disposal of any Hazardous Materials or any other environmental, health or safety matter which affects Borrower or its business operations or assets or any properties at which Borrower has transported, stored or disposed of any Hazardous Materials unless the foregoing could not reasonably be expected to have a Material Adverse Effect.

(g) Default: Material Adverse Change. Promptly of (i) any Material Adverse Effect, (ii) the occurrence of any Event of Default hereunder, or (iii) the occurrence of any event which, if uncured, will become an Event of Default after notice or lapse of time (or both).

All of the foregoing notices shall be provided by Borrower to Lender in writing and shall describe the steps being taken by Borrower or any Subsidiary of Borrower affected thereby with respect thereto.

10.03 Compliance with Laws and Maintenance of Permits.

Borrower shall maintain all governmental consents, franchises, certificates, licenses, authorizations, approvals and permits, the lack of which would have a Material Adverse Effect and Borrower shall remain in compliance with all applicable federal, state, local and foreign statutes, orders, regulations, rules and ordinances (including Environmental Laws and statutes, orders, regulations, rules and ordinances relating to taxes, employer and employee contributions and similar items, securities, ERISA or employee health and safety) the failure with which to comply would have a Material Adverse Effect. Following any determination by Lender that there is non-compliance, or any condition which requires any action by or on behalf of Borrower in order to avoid non-compliance, with any Environmental Law, at Borrower's expense cause an independent environmental engineer acceptable to Lender to conduct such tests of the relevant site(s) as are appropriate and prepare and deliver a report setting forth the results of such tests, a proposed plan for remediation and an estimate of the costs thereof.

10.04 Inspection and Audits.

Borrower shall permit Lender, or any Persons designated by it, upon reasonable advance notice to Borrower if no Default Period then exists, to call at Borrower's places of business at any reasonable times, and, without hindrance or delay, to inspect the Collateral and to inspect, audit, check and make extracts from Borrower's books, records, journals, orders, receipts and any correspondence and other data relating to Borrower's business, the Collateral or any transactions between the parties hereto, and shall have the right to make such verification concerning

Borrower's business as Lender may consider reasonable under the circumstances. Borrower shall furnish to Lender such information relevant to Lender's rights under the Loan Documents as Lender shall at any time and from time to time reasonably request. Lender, through its officers, employees or agents shall have the right, at any time and from time to time, in Lender's name, to verify the validity, amount or any other matter relating to any of Borrower's Accounts, by mail, telephone, telecopy, electronic mail, or otherwise, provided that prior to the occurrence of an Event of Default, Lender shall conduct such verification in the name of a nominee of Lender or in Borrower's name. Borrower authorizes Lender to discuss the affairs, finances and business of Borrower with any officers, employees or directors of Borrower or with its Parent or any Affiliate or the officers, employees or directors of its Parent or any Affiliate, and to discuss the financial condition of Borrower with Borrower's independent public accountants (provided that, a representative of Borrower shall have been afforded the opportunity to be present for such discussion) upon reasonable advance notice to Borrower and at reasonable times during business hours not more frequently than once per Fiscal Year (provided that such annual limitation shall not apply during a Default Period). Any such discussions shall be without liability to Lender or to Borrower's independent public accountants. For each inspection or audit conducted by Lender hereunder, Borrower shall pay to Lender (a) fees at Lender's then-current per diem rate, plus (b) all costs and out-of-pocket expenses incurred by Lender; provided, however, that, notwithstanding the foregoing or anything else contained herein, while no Default Period exists the Borrower shall have no obligation to pay for more than two field exams or audits per calendar year or more than two Inventory appraisals per calendar year. All such fees, costs and expenses shall constitute Obligations hereunder, shall be payable on demand and, until paid, shall bear interest at the highest rate then applicable to Loans hereunder.

10.05 **Insurance.**

(a) Borrower will obtain and at all times maintain insurance with insurers reasonably acceptable to the Lender, in such amounts, on such terms (including any deductibles) and against such risks in such amounts and against such risks as is usually carried by companies engaged in similar business and owning similar properties in the same general areas in which Borrower operates. Without limiting the generality of the foregoing, Borrower will at all times maintain liability insurance, business interruption insurance including coverage for force majeure and keep all tangible Collateral insured against risks of fire (including so-called extended coverage), theft, collision (for Collateral consisting of motor vehicles) and such other risks and in such amounts as the Lender may reasonably request, with any loss payable to the Lender to the extent of its interest, and all policies of such insurance shall contain a lender's loss payable endorsement for the Lender's benefit or an endorsement showing Lender as additional insured.

(b) If Borrower at any time or times hereafter shall fail to obtain or maintain any of the policies of insurance required above or to pay any premium relating thereto, then Lender, without waiving or releasing any obligation or default by Borrower hereunder, may (but shall be under no obligation to) obtain and maintain such policies of insurance and pay such premiums and take such other actions with respect thereto as Lender deems advisable upon notice to Borrower. Such insurance, if obtained by Lender, may, but need not, protect Borrower's interests or pay any claim made by or against Borrower with respect to the Collateral. Such insurance may be more expensive than the cost of insurance Borrower may be able to obtain on its own and may be cancelled only upon Borrower providing evidence that it has obtained the insurance as required

above. All sums disbursed by Lender in connection with any such actions, including court costs, expenses, other charges relating thereto and reasonable attorneys' fees, shall constitute Loans hereunder, shall be payable on demand by Borrower to Lender and, until paid, shall bear interest at the highest rate then applicable to Loans hereunder.

UNLESS BORROWER PROVIDES LENDER WITH EVIDENCE OF THE INSURANCE COVERAGE REQUIRED BY THIS AGREEMENT, LENDER MAY PURCHASE INSURANCE AT BORROWER'S EXPENSE TO PROTECT LENDER'S INTERESTS IN THE COLLATERAL. THIS INSURANCE MAY, BUT NEED NOT, PROTECT BORROWER'S INTERESTS IN THE COLLATERAL. THE COVERAGE THAT LENDER PURCHASES MAY NOT PAY ANY CLAIM THAT BORROWER MAKES OR ANY CLAIM THAT IS MADE AGAINST BORROWER IN CONNECTION WITH THE COLLATERAL. BORROWER MAY LATER CANCEL ANY INSURANCE PURCHASED BY LENDER, BUT ONLY AFTER PROVIDING LENDER WITH EVIDENCE THAT BORROWER HAS OBTAINED INSURANCE AS REQUIRED BY THIS AGREEMENT. IF LENDER PURCHASES INSURANCE FOR THE COLLATERAL, BORROWER WILL BE RESPONSIBLE FOR THE COSTS OF THAT INSURANCE, INCLUDING INTEREST AND ANY OTHER CHARGES LENDER MAY IMPOSE IN CONNECTION WITH THE PLACEMENT OF THE INSURANCE, UNTIL THE EFFECTIVE DATE OF THE CANCELLATION OR EXPIRATION OF THE INSURANCE. THE COSTS OF THE INSURANCE MAY BE ADDED TO THE OBLIGATIONS SECURED BY THIS AGREEMENT. THE COSTS OF THE INSURANCE MAY BE MORE THAN THE COST OF INSURANCE BORROWER MAY BE ABLE TO OBTAIN ON BORROWER'S OWN.

10.06 Collateral.

Borrower shall keep the Collateral in good condition, repair and order, ordinary wear and tear excepted, and shall make all required repairs to the Equipment and replacements thereof in a manner that Borrower reasonably believes will cause the operating efficiency and the value thereof to be preserved and maintained in all material respects. Subject to the limitations on inspection rights set forth in **Section 10.04**, Borrower shall permit Lender to examine any of the Collateral at any time and wherever the Collateral may be located and, Borrower shall, promptly upon request therefor by Lender, deliver to Lender any and all evidence of ownership of any of the Equipment including certificates of title and applications of title to the extent constituting Collateral. Borrower shall, at the request of Lender, indicate on its records concerning the Collateral a notation, in form satisfactory to Lender, of the security interest of Lender hereunder.

10.07 Use of Proceeds.

All monies and other property obtained by Borrower from Lender pursuant to this Agreement shall be used solely for (i) the business purposes of Borrower, (ii) Permitted Acquisitions, (iii) the payment of fees, costs and expenses in connection with the negotiation, execution and delivery of this Agreement and the other Loan Documents.

10.08 **Taxes.**

Borrower shall file all required federal and material state and local tax returns and pay all of its federal and material state and local taxes when due, subject to any extensions granted by the applicable taxing authority, including taxes imposed by federal, state or municipal agencies, and shall cause any liens for taxes to be promptly released; provided, that Borrower shall have the right to contest the payment of such taxes in good faith by appropriate proceedings so long as (a) the amount so contested is shown on Borrower's financial statements; (b) Borrower keeps on deposit with Lender (such deposit to be held without interest) or a reserve is maintained against Borrower's availability to borrow money under **Section 2.01**, in either case, in an amount of money which, in the sole judgment of Lender, is sufficient to pay such taxes and any interest or penalties that may accrue thereon; (c) if Borrower fails to prosecute such contest with reasonable diligence, Lender may apply the money so deposited in payment of such taxes. If Borrower fails to pay any such taxes and in the absence of any such contest by Borrower, Lender may (but shall be under no obligation to) advance and pay any sums required to pay any such taxes and/or to secure the release of any lien therefor, and any sums so advanced by Lender shall constitute Loans hereunder, shall be payable by Borrower to Lender on demand, and, until paid, shall bear interest at the highest rate then applicable to Loans hereunder.

10.09 **Intellectual Property.**

Borrower shall maintain adequate licenses, patents, patent applications, copyrights, service marks, trademarks, trademark applications, tradestyles and trade names to continue its business as heretofore conducted by it or as hereafter conducted by it unless the failure to maintain any of the foregoing could not reasonably be expected to have a Material Adverse Effect.

10.10 **Checking Accounts and Cash Management Services.**

Borrower shall maintain its general checking/controlled disbursement account with Lender or another bank acceptable to Lender. If Borrower maintains its general checking/controlled disbursement account with Lender, (a) normal charges shall be assessed thereon, (b) although no compensating balance is required, Borrower must keep monthly balances in order to merit earnings credits which will cover Lender's service charges for demand deposit account activities, and (c) Borrower shall enter into agreements with Lender for standard cash management services. Borrower shall be responsible for all normal charges assessed thereon. All of Borrower's bank accounts are set forth on Schedule 9.02. Borrower will not open any other bank account unless (i) Borrower provides written notice to Lender at least ten (10) days prior to opening such account and (ii) the bank at which such account is located executes such documents as are necessary to give Lender a first priority, perfected security interest in such account. On or before the date which is ninety (90) days after the Closing Date, Borrower shall close each of its bank accounts with Citizens Bank.

10.11 **Patriot Act, Bank Secrecy Act and Office of Foreign Assets Control.**

As required by federal law and the Lender's policies and practices, Lender may need to obtain, verify and record certain customer identification information and documentation in connection with opening or maintaining accounts, or establishing or continuing to provide services

and Borrower agrees to provide such information that will allow Lender to identify each Loan Party in accordance with the Patriot Act or Anti-Money Laundering Laws. In addition, and without limiting the foregoing sentence, Borrower shall (a) ensure, and cause each of its Subsidiaries to ensure, that no Person who owns a controlling interest in or otherwise controls Borrower or any Subsidiary of Borrower is or shall be listed on the Specially Designated Nationals and Blocked Person List or other similar lists maintained by OFAC, the Department of the Treasury or included in any Executive Orders, (b) not use or permit the use of the proceeds of the Loans to violate any of the foreign asset control regulations of OFAC or any enabling statute or Executive Order relating thereto, and (c) comply, and cause each of its Subsidiaries to comply, with all applicable Anti-Money Laundering Laws.

10.12 Compliance with Beneficial Ownership Regulation.

Borrower shall (a) notify Lender of any change in the information in the Beneficial Ownership Certification that would result in a change to the list of beneficial owners identified therein and (b) promptly upon the reasonable request of Lender, provide Lender any information or documentation requested by it for purposes of complying with the Beneficial Ownership Regulation.

10.13 Post-Closing Deliveries.

As promptly as practicable, and in any event within the time periods specified in Schedule 10.13 or such later date as Lender reasonably agrees to in writing, Borrower shall deliver the documents or take the actions specified on Schedule 10.13, in each case reasonably acceptable to Lender.

11. NEGATIVE COVENANTS.

Until payment and satisfaction in full of all Obligations (other than contingent indemnification obligations for which no claim has been made) and termination of this Agreement, unless Borrower obtains Lender's prior written consent waiving or modifying any of Borrower's covenants hereunder in any specific instance, Borrower agrees as follows:

11.01 Dispositions.

Borrower shall not make any Disposition or enter into any agreement to make any Disposition, except: (a) Dispositions of Inventory in the ordinary course of business; (b) Dispositions of obsolete or worn out property, whether now owned or hereafter acquired, in the ordinary course of business; and (c) Dispositions that result from a casualty or condemnation in respect of such property or assets and is not otherwise an Event of Default so long as all proceeds thereof are applied in accordance with Section 2.07(f); (d) Dispositions of capital assets outside of the ordinary course of Borrower's business in an arms-length transaction having an aggregate book value of less than \$100,000 in any calendar year; (e) Dispositions of individual accounts receivable (and not as part of any financing or bulk sale) in connection with the collection or compromise thereof on commercially reasonable terms to the extent such accounts receivable are not included in the most recent Borrowing Base Certificate delivered by Borrower to Lender; (f) licenses of Intellectual Property in the ordinary course of Borrower's business, and (g) Dispositions of owned or leased vehicles in the ordinary course of Borrower's business.

11.02 **Indebtedness.**

Borrower shall not create, incur, assume or become obligated (directly or indirectly), for any loans or other Indebtedness other than the Obligations, except that Borrower may (a) borrow money from a Person other than Lender or incur other Indebtedness on an unsecured basis in an aggregate principal amount not to exceed \$500,000 at any time outstanding, or otherwise to the extent that a subordination agreement in favor of Lender and in form and substance satisfactory to Lender is executed and delivered to Lender prior to any borrowing of money; (b) incur Hedging Obligations in favor of Lender or any affiliate of Fifth Third Bancorp; (c) maintain its present Indebtedness listed on Schedule 9.14; (d) incur unsecured indebtedness to trade creditors in the ordinary course of business; and (e) incur purchase money indebtedness or capitalized lease obligations in a principal amount not to exceed \$500,000.00 in the aggregate at any time outstanding; (f) guarantee Indebtedness otherwise permitted under this Agreement of any wholly-owned Subsidiary; (g) if constituting Indebtedness, incur obligations in connection with matching 401(k) contributions in the ordinary course of its business; (h) incur Indebtedness secured by Permitted Liens; (i) incur 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; (j) incur obligations under incentive, non-compete, consulting, deferred compensation or other similar arrangement; (k) incur Indebtedness in respect of performance bonds, bid bonds, appeal bonds, surety bonds, custom bonds, financial assurances and completion guarantees and similar obligations in the ordinary course of business; (l) Indebtedness of any Person acquired after the Closing Date in a Permitted Acquisition to the extent existing at the time of such Permitted Acquisition, provided that (i) such Indebtedness shall not have been incurred in contemplation of such Permitted Acquisition and (ii) after giving effect to the acquisition of any such Indebtedness, the aggregate principal amount of all Indebtedness acquired and outstanding pursuant to this clause (l) shall not exceed \$500,000; (m) incur customary indemnification obligations under agreements entered into to consummate a Permitted Acquisition; (n) incur earn-out obligations, seller note obligations and other deferred purchase price obligations in connection with Permitted Acquisitions, provided such obligations under this clause (n) are subordinated to the Obligations pursuant to a subordination agreement in favor of Lender and in form and substance satisfactory to Lender prior to or contemporaneously with its incurrence; and (o) incur Indebtedness under credit card programs, fuel card programs and company purchase card programs, in each case, to the extent consistent with past practice and incurred in the ordinary course of Borrower's business.

11.03 **Liens.**

Borrower shall not grant or permit to exist (voluntarily or involuntarily) any lien, claim, security interest or other encumbrance whatsoever on any of its assets, other than Permitted Liens.

11.04 **Mergers, Sales, Acquisitions, Subsidiaries and Other Transactions Outside the Ordinary Course of Business.**

Borrower shall not (a) form any foreign Subsidiary and shall not form any domestic Subsidiary, unless such Subsidiary (i) has no material assets, and (ii) such Subsidiary is formed for purposes of consummating a Permitted Acquisition and is joined as a Loan Party on or before the closing of such Permitted Acquisition; (b) enter into any merger or consolidation; (c) change

the state of Borrower's organization or enter into any transaction which has the effect of changing Borrower's state of organization; (d) [reserved]; (e) if Borrower is a limited liability company, divide into multiple limited liability companies; (f) [reserved]; (g) [reserved]; (h) enter into any joint ventures or partnerships with any other Person; or (i) enter into any other material transaction outside the ordinary course of Borrower's business.

11.05 Dividends and Distributions.

Borrower shall not declare or pay any dividend or other distribution (whether in cash or in kind) on any class of its stock (if Borrower is a corporation) or on account of any Equity Interest in Borrower (if Borrower is a partnership, limited liability company or other type of entity) or make any payments in full or partial satisfaction of the Parent Intercompany Taxes Payable. Notwithstanding the foregoing:

(a) so long as Borrower is part of a consolidated, combined, affiliated, unitary or similar income tax group for U.S. federal and/or applicable state or local income tax purposes for which another Person is the common parent, Borrower may make Tax Distributions; and

(b) Borrower may declare or pay dividends or other distributions in respect of its Equity Interests and make payments in full or partial satisfaction of the Parent Intercompany Taxes Payable provided that both immediately before and immediately after giving effect to any such dividend or other distribution, (i) no Event of Default then exists under this Agreement or would be created thereby on a pro-forma basis, (ii) Excess Availability on a pro-forma basis after giving effect to such dividend or distribution is not less than \$3,000,000 and (iii) not less than five (5) days prior to such distribution or payment, Borrower provides a written certification to Lender as to the amount of any such dividend, distribution or payment, the pro-forma Excess Availability calculation and certifying that no Event of Default then exists or would be caused thereby on a pro forma basis.

11.06 Investments; Loans.

Borrower shall not purchase or otherwise acquire, or contract to purchase or otherwise acquire, the obligations, stock or other equity interests of any Person, all or a material portion of the assets of any Person or division of any Person, or lend or otherwise advance funds to any Person, other than (a) direct obligations of the United States, (b) Hedging Agreements with Lender, (c) pursuant to and to the extent permitted in a Permitted Acquisition, (d) obligations insured by the Federal Deposit Insurance Corporation and obligations unconditionally guaranteed by the United States, (e) advances made to employees, officers and directors for travel and other expenses arising in the ordinary course of business, (f) extensions of trade credit to customers in the ordinary course of Borrower's business, (g) advances in the ordinary course of Borrower's business to suppliers consistent with past practices, and (h) securities or other property distributed in connection with a bankruptcy or other insolvency proceeding of a customer or contract counterparty.

11.07 Fundamental Changes, Line of Business.

Borrower shall not amend its organizational documents in a manner adverse to the Lender's interest in any respect, or change its Fiscal Year or enter into a new line of business

materially different from Borrower's current business unless (a) such actions would not have a Material Adverse Effect; (b) such actions would not adversely affect Lender; and (c) Lender has received ten (10) days prior written notice of such amendment or change.

11.08 **Equipment.**

Borrower shall not (a) permit any Equipment to become a Fixture to real property unless such real property is owned by Borrower and is subject to a mortgage in favor of Lender, or if such real estate is leased, is subject to a landlord's agreement in favor of Lender on terms reasonably acceptable to Lender, or (b) permit any Equipment to become an accession to any other personal property unless such personal property is subject to a first priority lien in favor of Lender (subject to Permitted Liens).

11.09 **Affiliate Transactions.**

Except (a) as set forth on Schedule 9.09, and (b) pursuant to the Management Agreement, Borrower shall not conduct, permit or suffer to be conducted, transactions with Affiliates other than transactions for the purchase or sale of Inventory or services in the ordinary course of business pursuant to terms that are no less favorable to Borrower than the terms upon which such transactions would have been made had they been made to or with a Person that is not an Affiliate.

11.10 **Settling of Accounts.**

Borrower shall not settle or adjust any Account other than in the ordinary course of business consistent with past practices and, as permitted pursuant to **Section 11.01**; provided, however, (a) during any Default Period, no Account may be settled or adjusted without the consent of the Lender (other than settlements and adjustments for which a binding agreement was entered into prior to the inception of such Default Period) and (b) no Account with respect to which the Account Debtor is an Affiliate of Borrower may be settled or adjusted.

11.11 **Consulting and Management Fees.**

(a) Borrower shall not pay in any Fiscal Year any consulting fees except fees to consultants who are not Affiliates of Borrower on an arm's-length basis in the ordinary course of business.

(b) Borrower shall not pay any management fees to any Persons except pursuant to the Management Agreement and subject to the Management Fee Subordination Agreement.

11.12 **ERISA.**

Except as disclosed to the Lender in writing prior to the date hereof, neither Borrower nor any ERISA Affiliate will (a) adopt, create, assume or become a party to any Pension Plan, (b) incur any obligation to contribute to any Multiemployer Plan, (c) incur any obligation to provide post-retirement medical or insurance benefits with respect to employees or former employees (other than benefits required by law) or (d) amend any Plan in a manner that would materially increase its funding obligations.

11.13 Use of Proceeds

Borrower shall not, and shall not permit any of its Subsidiaries to (a) directly or indirectly apply any part of the proceeds of any Loan to the purchasing or carrying margin stock (within the meaning of Regulation U issued by the Board of Governors of the Federal Reserve System); (b) use the proceeds of the Loans, or lend, contribute or otherwise make available such proceeds to any Person: (i) to fund any activities or business of or with any Person, or in any country or territory, that, at the time of such funding, is, or whose government is, the subject of Sanctions; or (ii) in any other manner that will result in a violation of Sanctions by any Person (including any Person participating in the Loans, whether as lender, advisor, investor or otherwise); (c) use the proceeds of the Loans, directly or indirectly, in furtherance of an offer, payment, promise to pay, or authorization of the payment or giving of money, or anything else of value, to any Person in violation of Anti-Corruption Laws; or (d) use the proceeds of the Loans in violation of any Anti-Terrorism Laws.

11.14 Subordinated Debt.

Except as permitted pursuant to the terms of any applicable Subordination Agreement, Borrower shall not, and shall not permit any of its Subsidiaries to make: (a) any payment of principal of, or interest on, any of the Subordinated Debt, if an Event of Default then exists hereunder or would result from such payment; (b) any payment of the principal or interest due on the Subordinated Debt as a result of acceleration thereunder or a mandatory prepayment thereunder; (c) any amendment or modification of or supplement to the documents evidencing or securing the Subordinated Debt; or (d) payment of principal or interest on the Subordinated Debt other than when due (without giving effect to any acceleration of maturity or mandatory prepayment).

12. FINANCIAL COVENANTS.

Borrower shall maintain and keep in full force and effect each of the financial covenants set forth below:

12.01 Fixed Charge Coverage.

Borrower shall not permit Fixed Charge Coverage of Borrower to be less than 1:05 to 1:00, as of March 31, 2022, or as of the last day of any fiscal quarter thereafter. For purposes of calculating Fixed Charge Coverage for periods prior to the Closing Date, Fixed Charges and Operating Cash Flow will be as set forth on Schedule 12.01.

13. DEFAULT AND REMEDIES.

13.01 Events of Default.

The occurrence of any one or more of the following events shall constitute an “Event of Default” by Borrower hereunder:

(a) **Payment.** The failure of any Loan Party to pay when due or declared due by Lender (i) any payment of principal or interest on the Obligations or (ii) within three (3) Business

Days following notice of such non-payment, any payment of other Obligations, unless, in each case, such failure to pay is solely caused by Lender's failure to apply available funds from the Blocked Account prior to the due date thereof in accordance with the terms of this Agreement and Borrower has cured any such failure to pay immediately upon Lender's notice thereof to Borrower; or

(b) **Breach of Loan Documents.** The failure of any Loan Party to perform, keep or observe any of the covenants, conditions, promises, agreements or obligations of such Loan Party under any of the Loan Documents; provided that any such failure by Borrower under (i) **Sections 10.02(a), 10.02(d), 10.02(e), 10.02(f), 10.03 and 10.09**, of this Agreement shall not constitute an Event of Default hereunder until the 30th day following any Loan Party obtaining knowledge thereof, (ii) **Section 10.08** of this Agreement shall not constitute an Event of Default hereunder until the 5th day following any Loan Party obtaining knowledge thereof and (iii) **Sections 5.03, 5.04, 5.06(D), 10.06, 10.11 and 10.12** of this Agreement, and the last sentence of **Section 5.07** of this Agreement, shall not constitute an Event of Default hereunder until the 10th day following any Loan Party obtaining knowledge thereof; or

(c) **Breaches of Other Obligations.** The failure of any Loan Party to perform, keep or observe (after any applicable notice and cure period) any of the covenants, conditions, promises, agreements or obligations of such Loan Party under any other agreement with any Person if such failure could reasonably be expected to have a Material Adverse Effect; or

(d) **Breach of Representations and Warranties.** The making or furnishing by any Loan Party to Lender of any representation, warranty, certificate, schedule, report or other communication which is untrue or misleading in any material respect as of the date made within or in connection with the Loan Documents, any Bank Product Agreement or in connection with any other agreement between such Loan Party and Lender executed in connection with any credit, loan or lease provided by Lender or an affiliate of Lender to Borrower; or

(e) **Loss of Collateral.** A loss, theft, damage or destruction occurs with respect to any Collateral if the amount not covered by insurance exceeds \$250,000; or

(f) **Levy, Seizure or Attachment.** Any writ or warrant of attachment or execution or similar process is issued or levied against any of the Collateral having a value in excess of \$250,000; or

(g) **Bankruptcy or Similar Proceedings.** The commencement of any proceedings in bankruptcy by or against any Loan Party or for the liquidation or reorganization of any Loan Party, or alleging that such Loan Party is insolvent or unable to pay its debts as they mature, or for the readjustment or arrangement of any Loan Party's debts, whether under the United States Bankruptcy Code or under any other law, whether state or federal, now or hereafter existing, for the relief of debtors, or the commencement of any analogous statutory or non-statutory proceedings involving any Loan Party, which, in the case of any such involuntary proceeding not stayed or dismissed within sixty (60) days after the filing thereof or is granted; or

(h) **Appointment of Receiver.** The appointment of a receiver or trustee for any Loan Party, for any of the Collateral or for any substantial part of any Loan Party's assets or the

institution of any proceedings for the dissolution, or the full or partial liquidation, or, to the extent not otherwise permitted hereunder, the merger or consolidation, of any Loan Party which is a corporation, limited liability company or a partnership; or

(i) **Judgment.** The entry of any monetary judgments or orders aggregating in excess of \$250,000 (to the extent not covered by insurance) against any Loan Party which remains unsatisfied or undischarged and in effect for 30 days after such entry without a stay of enforcement or execution; or

(j) **Dissolution of Loan Party.** The dissolution of any Loan Party which is a partnership, limited liability company, corporation or other entity; or

(k) **Death of Loan Party.** The death of any Loan Party who is a natural Person; or

(l) **Default or Revocation of Guaranty.** The occurrence of an event of default under, or the revocation by such Person or termination of, any agreement, instrument or document executed and delivered by any Person to Lender pursuant to which such Person has guaranteed to Lender the payment of all or any of the Obligations or has granted Lender a security interest in or lien upon some or all of such Person's real and/or personal property to secure the payment of all or any of the Obligations; or

(m) **Criminal Proceedings.** The institution in any court of a criminal proceeding against any Loan Party which would have a Material Adverse Effect, or the indictment of any Loan Party for any crime other than traffic and boating tickets and misdemeanors not punishable by jail terms; or

(n) **Change of Control.** A Change of Control shall occur; or

(o) **Material Adverse Change.** A Material Adverse Effect shall occur; or

(p) **Other Indebtedness.** The occurrence of a breach, default or event of default by a Loan Party (in its capacity as borrower, guarantor or otherwise) in any Indebtedness (other than the Loans) which could reasonably be expected to have a Material Adverse Effect; or

(q) **Subordinated Debt.** (i) Any default or event of default occurs under the Subordinated Debt Documents after the expiration of any applicable cure periods, or (ii) any subordination agreement entered into by Lender with respect to Subordinated Debt fails to be enforceable by Lender in accordance with the terms thereof.

13.02 Remedies.

(a) Upon the occurrence of an Event of Default described in **Section 13.01(g)**, all of the Obligations shall immediately and automatically become due and payable, without notice of any kind. Upon the occurrence of any other Event of Default, all Obligations may, at the option of Lender, and without demand, notice or legal process of any kind, be declared, and immediately shall become, due and payable.

(b) During a Default Period, Lender may exercise from time to time any rights and remedies available to it under the Uniform Commercial Code and any other applicable law in addition to, and not in lieu of, any rights and remedies expressly granted in the Loan Documents and all of Lender's rights and remedies shall be cumulative and non-exclusive to the extent permitted by law. In particular, but not by way of limitation of the foregoing, Lender may, without notice, demand or legal process of any kind, (i) suspend, terminate or limit any further loans or other extensions of credit under this Agreement and the other Loan Documents, and/or (ii) take possession of any or all of the Collateral (in addition to Collateral of which it already has possession), wherever it may be found, and for that purpose may pursue the same wherever it may be found, and may enter onto any of Borrower's premises where any of the Collateral may be, and search for, take possession of, remove, keep and store any of the Collateral until the same shall be sold or otherwise disposed of, and Lender shall have the right to store the same at any of Borrower's premises without cost to Lender. At Lender's request, Borrower shall, at Borrower's expense, assemble the Collateral and make it available to Lender at one or more places to be designated by Lender and reasonably convenient to Lender and Borrower. Borrower recognizes that if Borrower fails to perform, observe or discharge any of its Obligations under the Loan Documents, no remedy at law will provide adequate relief to Lender, and agrees that Lender shall be entitled to temporary and permanent injunctive relief in any such case without the necessity of proving actual damages. Any notification of intended disposition of any of the Collateral required by law will be deemed to be a reasonable authenticated notification of disposition if given at least 10 days prior to such disposition and such notice shall (i) describe Lender and Borrower, (ii) describe the Collateral that is the subject of the intended disposition, (iii) state the method of the intended disposition, (iv) state that Borrower is entitled to an accounting of the Obligations and state the charge, if any, for an accounting and (v) state the time and place of any public disposition or the time after which any private sale is to be made. Lender may disclaim any warranties that might arise in connection with the sale, lease or other disposition of the Collateral and has no obligation to provide any warranties at such time. Any Proceeds of any disposition by Lender of any of the Collateral may be applied by Lender to the payment of expenses in connection with the Collateral, including legal expenses and reasonable attorneys' fees, and any balance of such Proceeds may be applied by Lender toward the payment of such of the Obligations, and in such order of application, as Lender may from time to time elect.

(c) Without limiting the rights of Lender under applicable law, Lender has a right of set-off, a lien against and a security interest in all property of Borrower now or at any time in Lender's or any affiliate of Lender's possession in any capacity whatsoever, including but not limited to any balance of any deposit, trust or agency account, or any other bank account, as security for all Obligations. At any time and from time to time following the occurrence of an Event of Default, or event which, with the passage of time, the giving of notice or both would become an Event of Default, Lender may without notice or demand, set-off and apply or cause to be set-off or otherwise applied any and all deposits at any time held and other indebtedness at any time owing by Lender or any affiliate of Lender to or for the credit of any one or more of Borrower against the Obligations.

(d) Lender shall have the right, but not the obligation, to continue to extend the Revolving Loans during any Default Period without waiving any Event of Default or the default remedies of Lender and on such terms and conditions as Lender elects in its sole and absolute discretion. Without limitation to any of its default rights and remedies, Lender may elect to

continue to make the Revolving Loans with such a reduced Maximum Revolving Loan Limit and with such reductions in the percentages set forth in the definition of Borrowing Base as Lender determines to be in the interest of Lender.

(e) In addition to all other rights, options and remedies granted or available to Lender under this Agreement or the other Loan Documents, or otherwise available at law or in equity, upon or at any time during a Default Period or after the occurrence and during the continuance of any event which with the giving of notice or the passage of time, or both, would become an Event of Default, Lender may, in its sole and absolute discretion, (i) withhold or cease making Loans or issuing Letters of Credit, (ii) commence accruing interest on the Loans at a rate up to the Default Rate or (iii) decrease the Maximum Revolving Loan Limit and/or the rates of advance under the Borrowing Base.

13.03 **License to Use Intellectual Property.**

Lender is hereby granted an irrevocable, non-exclusive license or other right to use, license of sub-license (without payment of royalty or other compensation to any Person) any or all Intellectual Property of the Loan Parties, computer hardware and software, trade secrets, brochures, customer lists, promotional and advertising materials, labels, packaging materials and other Property, in advertising for sale, marketing, selling, collecting, completing manufacture of, or otherwise exercising any rights or remedies with respect to, any Collateral. Each Loan Party's rights and interests under Intellectual Property shall inure to the Lender's benefit.

13.04 **Commercially Reasonable Sales.**

To the extent that applicable law imposes duties on Lender to exercise remedies in a commercially reasonable manner, Borrower acknowledges and agrees that it is not commercially unreasonable for Lender (a) to fail to incur expenses reasonably deemed significant by Lender to prepare Collateral for disposition or otherwise to fail to complete raw material or work in process into finished goods or other finished products for disposition, (b) to fail to obtain third party consents for access to Collateral to be disposed of, or to obtain or, if not required by other law, to fail to obtain governmental or third party consents for the collection or disposition of Collateral to be collected or disposed of, (c) to fail to exercise collection remedies against account debtors or other persons obligated on Collateral or to fail to remove liens or encumbrances on or any adverse claims against Collateral, (d) to exercise collection remedies against account debtors and other persons obligated on Collateral directly or through the use of collection agencies and other collection specialists, (e) to advertise dispositions of Collateral through publications or media of general circulation, whether or not the Collateral is of a specialized nature, (f) to contact other persons, whether or not in the same business as the Borrower, for expressions of interest in acquiring all or any portion of the Collateral, (g) to hire one or more professional auctioneers to assist in the disposition of Collateral, whether or not the collateral is of a specialized nature, (h) to dispose of Collateral by utilizing Internet sites that provide for the auction of assets of the types included in the Collateral or that have the reasonable capability of doing so, or that match buyers and sellers of assets, (i) to dispose of assets in wholesale rather than retail markets, (j) to decline to provide credit to any potential purchaser of the Collateral in connection with Lender's disposition of the Collateral, (k) to disclaim disposition warranties, (l) to purchase insurance or credit enhancements to insure Lender against risks of loss, collection or disposition of Collateral

or to provide to Lender a guaranteed return from the collection or disposition of Collateral, or (m) to the extent deemed appropriate by Lender, to obtain the services of other brokers, investment bankers, consultants and other professionals to assist Lender in the collection or disposition of any of the Collateral. Borrower acknowledges that the purpose of this Section is to provide non-exhaustive indications of what actions or omissions by Lender would fulfill Lender's duties under the UCC in Lender's exercise of remedies against the Collateral and that other actions or omissions by Lender shall not be deemed to fail to fulfill such duties solely on account of not being indicated in this Section. Without limitation upon the foregoing, nothing contained in this Section shall be construed to grant any rights to Borrower or to impose any duties on Lender that would not have been granted or imposed by this Agreement or by applicable law in the absence of this Section.

13.05 **Equity Cure.**

(a) Subject to the limitations set forth in subsection (e) below, Borrower may cure (and shall be deemed to have cured) an Event of Default arising out of a breach of the Fixed Charge Coverage Ratio set forth in **Section 12.01** (the "**FCCR Covenant**"), if Borrower receives the cash proceeds of an investment of Curative Equity (as defined below) within fifteen (15) days of the occurrence of such Event of Default. As used herein, the term "**Curative Equity**" shall mean equity contributions or other contributions made by the Owners of Holdings in immediately available funds which are immediately remitted by Holdings to Borrower in exchange for Qualified Equity Interests.

(b) Any investment of Curative Equity shall be in an amount that is sufficient to cause the Loan Parties to be in compliance with the FCCR Covenant as of the last day of the most recently ended fiscal quarter calculated for such purpose as if such amount of Curative Equity were additional EBITDA.

(c) As a condition to any such cure, Borrower shall deliver to Lender an updated version of the compliance certificate delivered required to **Section 7.02** in respect of the fiscal quarter-end with respect to which Curative Equity is issued, which shall (i) include evidence of Borrower's receipt of Curative Equity proceeds and (ii) set forth a calculation of the financial results of Borrower at such fiscal quarter-end (including for such purposes the proceeds of such Curative Equity (broken out separately) as, subject to clause (e), deemed EBITDA as if received on such date), which shall confirm that on a pro forma basis after taking into account receipt of the Curative Equity proceeds in the amount specified therein, Borrower would have been in compliance with the FCCR Covenant as of such date.

(d) Upon Borrower's receipt of such Curative Equity proceeds and satisfaction of the other conditions set forth in this Section 13.05, the Event of Default that would have occurred as a result of a breach of the FCCR Covenant shall be deemed cured with no further action required by Borrower.

(e) Notwithstanding the foregoing, (i) (y) Borrower may not exercise the equity cure right under this **Section 13.05** more than four (4) times during the term of this Agreement and (z) the Loan Parties may not exercise the cure right under this **Section 13.05** more than twice in any twelve (12) consecutive fiscal months, (ii) the amount of Curative Equity permitted hereunder shall not exceed the amount that is sufficient to cause the Loan Parties to be in compliance with

the FCCR Covenant as of the last day of the most recently ended fiscal quarter, as applicable, and (iii) in connection with each exercise of Borrower's rights under this **Section 13.05**, Borrower shall be credited with EBITDA in an amount equal to 100% of the amount of Curative Equity received by Borrower in connection with such exercise. To the extent that Curative Equity is received and included in the calculation of the FCCR Covenant as EBITDA for any fiscal quarter, such Curative Equity shall be deemed to be added to EBITDA for purposes of determining compliance with the FCCR Covenant and for purposes of any other calculation of EBITDA for all subsequent periods that include the fiscal quarter for which such proceeds were received.

(f) Provided that the Loan Parties have the right to cure an Event of Default according to the terms of this **Section 13.05** and have provided the Lender with notice of their intention to do so, the Lender shall not exercise any right to accelerate the Loans, terminate the Commitments, or exercise any right to foreclose or take possession of the Collateral solely on the basis of an Event of Default having occurred and being continuing resulting from a breach of the FCCR Covenant, until the expiration of the fifteen (15) day time period set forth in **Section 13.05(a)**.

14. CONDITIONS PRECEDENT.

14.01 Conditions Precedent to Initial Loans.

The Lender's obligation to make the initial Credit Extension is subject to the satisfaction or waiver on or before the date hereof of the following conditions precedent:

(a) Lender shall have received each of the agreements, opinions, reports, approvals, consents, certificates and other documents set forth on the closing delivery list attached as Schedule 14.01-A in each case properly executed by the appropriate party and in form and substance satisfactory to the Lender;

(b) Since December 31, 2020, no event shall have occurred which has had or could reasonably be expected to have a Material Adverse Effect, as determined by Lender in its sole discretion;

(c) Lender shall have received payment in full of all fees and expenses payable to it by Borrower or any other Person in connection herewith, on or before disbursement of the initial Credit Extensions;

(d) As shown on Schedule 14.01-B, Lender shall have determined that immediately after giving effect to (i) the initial Credit Extensions, if any, requested to be made on the date hereof, (ii) the payment of all fees due upon such date and (iii) the payment or reimbursement by Borrower of Lender for all closing costs and expenses incurred in connection with the transactions contemplated hereby, Borrower has Excess Availability as of the Closing Date of not less than \$4,000,000.00; and

(e) The Loan Parties shall have executed and delivered to Lender all such other documents, instruments and agreements which Lender determines are reasonably necessary to consummate the transactions contemplated hereby.

14.02 Conditions Precedent to All Loans.

The Lender's obligation to make each Credit Extension shall be subject to the further conditions precedent that:

(a) the representations and warranties contained in **Section 9** are correct in all material respects (without duplication of any materiality qualifiers set forth in Section 9), on and as of the date of such Credit Extension as though made on and as of such date, except to the extent that such representations and warranties relate solely to an earlier date; and

(b) no Default or Event of Default has occurred and is continuing.

15. GENERAL PROVISIONS.

15.01 Indemnification.

Borrower agrees to defend (with counsel satisfactory to Lender), protect, indemnify and hold harmless Lender, each affiliate or Subsidiary of Lender, and each of their respective shareholders, members, officers, directors, managers, employees, attorneys and agents (each an "**Indemnified Party**") from and against any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, claims, costs, expenses and disbursements of any kind or nature (including the reasonable and documented disbursements and fees of outside counsel for each Indemnified Party in connection with any investigative, administrative or judicial proceeding, whether or not the Indemnified Party shall be designated a party thereto), which may be imposed on, incurred by, or asserted against, any Indemnified Party (whether direct, indirect or consequential and whether based on any federal, state or local laws or regulations, including securities laws and regulations, Environmental Laws and commercial laws and regulations, under common law or in equity, or based on contract or otherwise) in any manner relating to or arising out of this Agreement or any other Loan Document, or any act, event or transaction related or attendant thereto, the making or issuance and the management of the Loans or any Letters of Credit or the use or intended use of the proceeds of the Loans or any Letters of Credit (including, without limitation, all costs and expenses incurred with respect to the retention of any payments or transfers of any kind made to Lender by or on account of this Agreement, including the granting of liens, collateral rights, security interests, or payment protection of any type, in any action brought or threatened against Lender including any avoidance action in a bankruptcy or similar proceeding); provided, however, that Borrower shall not have any obligation hereunder to any Indemnified Party with respect to matters caused by or resulting from the willful misconduct or gross negligence of such Indemnified Party. To the extent that the undertaking to indemnify set forth in the preceding sentence may be unenforceable because it is violative of any law or public policy, Borrower shall satisfy such undertaking to the maximum extent permitted by applicable law. Any liability, obligation, loss, damage, penalty, cost or expense covered by this indemnity shall be paid to each Indemnified Party on demand, and, failing prompt payment, shall, together with interest thereon at the highest rate then applicable to Loans hereunder from the date incurred by each Indemnified Party until paid by Borrower, be added to the Obligations of Borrower and be secured by the Collateral. The provisions of this **Section 15.01** shall survive the satisfaction and payment of the other Obligations and the termination of this Agreement.

15.02 **Notice.**

All written notices and other written communications with respect to this Agreement shall be sent by ordinary, certified or overnight mail, by email, or delivered in person, to the address or email address specified for Lender or Borrower, as applicable, on Schedule 15.02. Borrower agrees that notices and other communications to it hereunder may be delivered or furnished by electronic communication (including e-mail and Internet or intranet websites) pursuant to procedures approved by Lender and such electronic communication shall have the same force and effect that the same submissions would have had if they had been submitted in any other applicable form authorized, required or contemplated by the Loan Documents. All notices shall be deemed received upon actual receipt thereof or refusal of delivery.

15.03 **Governing Law; Construction; Forum Selection.**

(a) THE LOAN DOCUMENTS SHALL BE GOVERNED AND CONTROLLED BY THE INTERNAL LAWS OF THE STATE OF ILLINOIS AS TO INTERPRETATION, ENFORCEMENT, VALIDITY, CONSTRUCTION, EFFECT, AND IN ALL OTHER RESPECTS, INCLUDING THE LEGALITY OF THE INTEREST RATE AND OTHER CHARGES, BUT EXCLUDING PERFECTION OF THE SECURITY INTERESTS IN COLLATERAL LOCATED OUTSIDE OF THE STATE OF ILLINOIS, WHICH SHALL BE GOVERNED AND CONTROLLED BY THE LAWS OF THE RELEVANT JURISDICTION IN WHICH SUCH COLLATERAL IS LOCATED. If any provision of this Agreement shall be held to be prohibited by or invalid under applicable law, such provision shall be ineffective only to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or remaining provisions of this Agreement.

(b) To induce Lender to accept this Agreement, Borrower irrevocably agrees that, subject to Lender's sole and absolute election, ALL ACTIONS OR PROCEEDINGS IN ANY WAY, MANNER OR RESPECT, ARISING OUT OF OR FROM OR RELATED TO THE LOAN DOCUMENTS OR THE COLLATERAL SHALL BE LITIGATED IN COURTS HAVING SITUS WITHIN THE CITY OF CHICAGO, STATE OF ILLINOIS. BORROWER HEREBY CONSENTS AND SUBMITS TO THE JURISDICTION OF ANY LOCAL, STATE OR FEDERAL COURTS LOCATED WITHIN SAID CITY AND STATE. BORROWER HEREBY WAIVES ANY RIGHT IT MAY HAVE TO TRANSFER OR CHANGE THE VENUE OF ANY LITIGATION BROUGHT IN ACCORDANCE WITH THIS SECTION. BORROWER AND LENDER HEREBY WAIVE PERSONAL SERVICE OF ANY AND ALL PROCESS FOR ANY AND ALL ACTIONS OR PROCEEDINGS AND AGREES THAT ALL SUCH SERVICE OF PROCESS MAY BE MADE UPON BORROWER OR LENDER BY CERTIFIED OR REGISTERED MAIL, RETURN RECEIPT REQUESTED, ADDRESSED TO BORROWER OR LENDER, AT THE ADDRESS SET FORTH FOR NOTICE IN THIS AGREEMENT AND SERVICE SO MADE SHALL BE COMPLETE 10 DAYS AFTER THE SAME HAS BEEN POSTED.

15.04 **Modification and Benefit of Agreement.**

The Loan Documents may not be modified, altered or amended except by an agreement in writing signed by Borrower or such other Person who is a party to such Loan Document and

Lender. Borrower may not sell, assign or transfer the Loan Documents or any portion thereof, including Borrower's rights, titles, interest, remedies, powers or duties hereunder and thereunder. Borrower hereby consents to Lender's sale, assignment, transfer or other disposition, at any time and from time to time hereafter, of the Loan Documents or of any portion thereof, or participations therein, including Lender's rights, titles, interest, remedies, powers and/or duties and agrees that it shall execute and deliver such documents as Lender may request in connection with any such sale, assignment, transfer or other disposition; provided, that in the absence of an Event of Default, Lender shall not sell assign or transfer (other than by way of any participation interest or in connection with a sale or transfer of Lender, a material portion of Lender's loan facilities or a material portion of Lender's asset based lending portfolio) all or any portion of the Loan or the Loan Documents without the consent of Borrower, such consent not to be unreasonably withheld, conditioned or delayed

15.05 Headings of Subdivisions.

The headings of subdivisions in this Agreement are for convenience of reference only, and shall not govern the interpretation of any of the provisions of this Agreement.

15.06 Power of Attorney.

Borrower acknowledges and agrees that its appointment of Lender as its attorney and agent-in-fact for the purposes specified in this Agreement is an appointment coupled with an interest and shall be irrevocable until all of the Obligations are satisfied and paid in full and this Agreement is terminated.

15.07 Confidentiality.

Lender hereby agrees to use commercially reasonable efforts to assure that any and all information relating to Borrower which is (a) furnished by Borrower to Lender (or to any affiliate of Lender); and (b) non-public, confidential or proprietary in nature, shall be kept confidential by Lender or such affiliate in accordance with applicable law; provided, however, that such information and other credit information relating to Borrower may be distributed by Lender or such affiliate to Lender's or such affiliate's directors, managers, officers, employees, attorneys, affiliates, assignees, participants, auditors, agents and regulators, and upon the order of a court or other governmental agency having jurisdiction over Lender or such affiliate, to any other party. In addition such information and other credit information may be distributed by Lender to potential participants or assignees of any portion of the Obligations, provided, that such potential participant or assignee agrees to follow the confidentiality requirements set forth herein. Borrower and Lender further agree that this provision shall survive the termination of this Agreement. Notwithstanding the foregoing, Borrower hereby consents to Lender publishing a tombstone or similar advertising material relating to the financing transaction contemplated by this Agreement.

15.08 Counterparts; Integration; Effectiveness; Electronic Execution.

(a) The Loan Documents and any amendments, waivers, consents or supplements may be executed in any number of counterparts and by different parties hereto in separate counterparts, each of which, when so executed and delivered, shall be deemed an original, but all of which counterparts together shall constitute but one agreement. This Agreement and the other

Loan Documents constitute the entire contract among the parties relating to the subject matter hereof and supersede any and all previous agreements and understandings, oral or written, relating to the subject matter hereof. Delivery of an executed counterpart of a signature page of this Agreement or any of the Loan Documents by facsimile or in electronic (i.e., "pdf" or "tif") format shall be effective as delivery of a manually executed counterpart of this Agreement.

(b) The words "execution," "signed," "signature," and words of like import in this Agreement and the other Loan Documents will be deemed to include electronic signatures or electronic records, each of which will be of the same legal effect, validity or enforceability as a manually executed signature or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any applicable law, including the Federal Electronic Signatures in Global and National Commerce Act, the Illinois Electronic Commerce Security Act, the New York State Electronic Signatures and Records Act, or any other similar state laws based on the Uniform Electronic Transactions Act.

15.09 WAIVER OF JURY TRIAL; OTHER WAIVERS.

(a) BORROWER AND LENDER EACH HEREBY WAIVE ALL RIGHTS TO TRIAL BY JURY IN ANY ACTION OR PROCEEDING WHICH PERTAINS DIRECTLY OR INDIRECTLY TO THE LOAN DOCUMENTS, THE OBLIGATIONS, THE COLLATERAL, ANY ALLEGED TORTIOUS CONDUCT BY BORROWER OR LENDER OR WHICH, IN ANY WAY, DIRECTLY OR INDIRECTLY, ARISES OUT OF OR RELATES TO THE RELATIONSHIP BETWEEN BORROWER AND LENDER. IN NO EVENT SHALL BORROWER OR LENDER BE LIABLE FOR LOST PROFITS OR OTHER SPECIAL, EXEMPLARY, PUNITIVE OR CONSEQUENTIAL DAMAGES.

(b) Borrower hereby waives demand, presentment, protest and notice of nonpayment, and further waives the benefit of all valuation, appraisal and exemption laws.

(c) Borrower hereby waives the benefit of any law that would otherwise restrict or limit Lender or any affiliate of Lender in the exercise of its right, which is hereby acknowledged and agreed to, to set-off against the Obligations, without notice at any time hereafter, any indebtedness, matured or unmatured, owing by Lender or such affiliate of Lender to Borrower, including any Deposit Account at Lender or such affiliate.

(d) EXCEPT TO THE EXTENT REQUIRED BY APPLICABLE LAW (INCLUDING ARTICLE 9 OF THE UCC) OR AS OTHERWISE REQUIRED PURSUANT TO THE TERMS OF THE LOAN DOCUMENTS, DURING A DEFAULT PERIOD, BORROWER HEREBY WAIVES ALL RIGHTS TO NOTICE AND HEARING OF ANY KIND PRIOR TO THE EXERCISE BY LENDER OF ITS RIGHTS TO REPOSSESS THE COLLATERAL OF BORROWER WITHOUT JUDICIAL PROCESS OR TO REPLEVY, ATTACH OR LEVY UPON SUCH COLLATERAL, PROVIDED THAT IN THE EVENT THAT LENDER SEEKS TO ENFORCE ITS RIGHTS HEREUNDER BY JUDICIAL PROCESS OR SELF HELP, LENDER SHALL PROVIDE BORROWER WITH SUCH NOTICES AS ARE REQUIRED BY LAW.

(e) Lender's failure, at any time or times hereafter, to require strict performance by Borrower of any provision of the Loan Documents shall not waive, affect or diminish any right of Lender thereafter to demand strict compliance and performance therewith. Any suspension or waiver by Lender of an Event of Default under this Agreement or any default under any of the other Loan Documents shall not suspend, waive or affect any other Event of Default under this Agreement or any other default under any of the other Loan Documents, whether the same is prior or subsequent thereto and whether of the same or of a different kind or character. No delay on the part of Lender in the exercise of any right or remedy under any Loan Document shall preclude other or further exercise thereof or the exercise of any right or remedy. None of the undertakings, agreements, warranties, covenants and representations of Borrower contained in the Loan Documents and no Event of Default under this Agreement or default under any of the other Loan Documents shall be deemed to have been suspended or waived by Lender unless such suspension or waiver is in writing, signed by a duly authorized officer of Lender and directed to Borrower specifying such suspension or waiver.

[signature page to follow]

The parties have duly executed this Agreement as of the date first written above.

Borrower:

PRECISION INDUSTRIES, INC.,
a Pennsylvania corporation

By:
Name:
Title:

Lender:

FIFTH THIRD BANK, NATIONAL ASSOCIATION

By:
Name: Jeffrey Seiden
Title: Senior Vice President

Signature page to Credit and Security Agreement

SCHEDULE 1.01-A

APPLICABLE MARGINS

	Reference Rate Margin (bps)	Tranche Rate Margin (bps)
Revolving Loans	0	200
Machinery & Equipment Term Loan	25	225
Capital Expenditure Term Loan	25	225

SCHEDULE 1.01-B

ACCOUNT CONCENTRATION EXCEPTIONS

None.

SCHEDULE 1.01-C

EXISTING LIENS

None.SCHEDULE 5.01

COMMERCIAL TORT CLAIMS

None.SCHEDULE 9.02

LOCATIONS; BANK ACCOUNTS

A. Borrower's business locations (please indicate which location is the principal place of business and at which locations originals and all copies of Borrower's books, records and accounts are kept).

Loan Party Obligor	Principal Place of Business
Precision Industries, Inc.	99 Berry Road; Washington, PA 15301

B. Other locations of Collateral (including warehouse locations, processing locations, consignment locations) and all post office boxes of Borrower. Please indicate the relationship of such location to Borrower (i.e. public warehouse, processor, etc.).

Owner/Landlord/Operator	Address	Owned/Leased/ Warehouse/Bailee
Harold St Interests, LLC	99 Berry Road; Washington, PA 15301	Leased
Teachers Insurance and Annuity Association of America	One Northpoint Court; Bolingbrook, IL 60440	Leased
Meadow Lands Industrial, LLC	50 Rockwood Lane, Meadow Lands, Pa 15347	Leased

C. Bank Accounts of Borrower (other than those maintained with Lender):

Bank (with address)	Account Number	Type of Account
Citizens Bank 525 William Penn Place Pittsburgh, PA 15219	669900-913-7	CDA/General Operating
Citizens Bank	620153-651-9	Cash Collateral/Lockbox
Citizens Bank	620153-652-7	Payroll
Citizens Bank	631517-158-7	Collateral for Standby LC

SCHEDULE 9.06

ORGANIZATION INFORMATION

Borrower	Entity Type	Jurisdiction	FEIN	Organizational # (PA Revenue ID #)
Precision Industries, Inc.	Corporation	Pennsylvania	25-1140506	1000680603

SCHEDULE 9.07

LITIGATION

None.SCHEDULE 9.09

AFFILIATE TRANSACTIONS

1. **The Management Agreement.** SCHEDULE 9.10

NAMES & TRADE NAMES

Legal Name	Prior Legal Name	Existing/Prior Trade Name
Precision Industries, Inc.	None	d/b/a Precision Marshall Steel Company

SCHEDULE 9.14

EXISTING INDEBTEDNESS

Lender	Balance	Interest Rate	Monthly Payment	Maturity Date
Holdback (Shareholders' Representative) (defined in the Credit Agreement as the "2020 Acquisition Holdback")	\$2,500,000.00	N/A	N/A	01/31/2022
Intercompany Payable (Advisory Fees pursuant to the Management Agreement)	\$377,419.33	N/A	N/A	N/A
Intercompany Payable (Taxes) (defined in the Credit Agreement as the "Parent Intercompany Taxes Payable")	\$1,738,647.00	N/A	N/A	N/A

SCHEDULE 9.16

PARENT, SUBSIDIARIES & AFFILIATES

Subsidiary

Parent

Precision Industries, Inc.

Precision Affiliated Holdings, LLC

SCHEDULE 9.19

INTELLECTUAL PROPERTY

Loan Party Obligor	Trademark Title	Trademark Application Number	Trademark Registration Number	Date of Application	Date of Registration
Precision Industries, Inc.	MARSHALLOY MQ	74326073	1,804,113	10/28/1992	11/16/1993
Precision Industries, Inc.	NUTEC	74301357	1,764,041	08/05/1992	4/13/1993
Precision Industries, Inc.	SUPER 7 MQ	74326071	1,841,645	10/28/1992	6/28/1994

SCHEDULE 9.20

ENVIRONMENTAL MATTERS

During the course of an environmental study conducted in connection with the original acquisition of the Borrower by Live Ventures, heightened mineral levels in the soil were reported at the 99 Berry Road, Washington, Pennsylvania 15301 location. However, based on additional follow-up environmental studies, no issues requiring remediation were found. As of the Closing Date, there is a remaining remediation liability accrual balance of \$122,632.37.

SCHEDULE 10.13

POST-CLOSING DELIVERIES

Action or Document	Due Date
1. Original Stock Certificate for Borrower	Ten (10) Business Days after the Closing Date
2. Insurance Endorsements for the insurance required under Sections 5.07 and 10.05	Thirty (30) days after the Closing Date

SCHEDULE 12.01

HISTORICAL FIXED CHARGES AND OPERATING CASH FLOW

SCHEDULE 14.01-A

CLOSING DELIVERY LIST

[ATTACH FINAL CLOSING CHECKLIST]SCHEDULE 14.01-B

SOURCES AND USES

[TO BE COMPLETED BY LENDER]SCHEDULE 15.02

CERTAIN ADDRESSES FOR NOTICES

Notice Address for Lender:

Fifth Third Bank
6111 N. River Road
Rosemont, Illinois 60018
Attn: Mr. Richard Sitz
Email: Richard.Sitz@53.com

With a copy to:

Thompson Coburn LLP
55 E. Monroe Street, 37th Floor
Chicago, Illinois 60603
Attn: Mr. Victor A. DesLaurier, Esq.
Email: vdeslaurier@thompsoncoburn.com

Notice Address for Borrower:

Precision Industries, Inc.
99 Berry Road
Washington, Pennsylvania 15301
Attn: Tom Sedlak
Email: tsedlak@pmsteel.com

and

Precision Affiliated Holdings, LLC
c/o Live Ventures Incorporated
325 E. Warm Springs Rd., #102
Las Vegas, Nevada 89119
Attention: Eric Althofer
Email: ealthofer@liveventures.com

With a copy to:

K&L Gates LLP
300 South Tryon Street, Suite 1000
Charlotte, North Carolina 28202
Attn: Aaron S. Rothman, Esq.
Email: Aaron.Rothman@klgates.com

EXHIBIT A

FORM OF COMPLIANCE CERTIFICATE

Compliance Certificate

to: Fifth Third Bank
date: __, 20__
subject: Precision Industries, Inc.

Financial Statements

In accordance with our Credit and Security Agreement dated as of January 20, 2022, as amended, modified, extended, renewed, supplemented or restated (the “**Credit Agreement**”), attached are the financial statements of Precision Industries, Inc., a Pennsylvania corporation (the “**Borrower**”) of and for the month ended _____, 20__ (the “**Reporting Date**”) and the year-to-date period then ended (the “**Current Financials**”) required to be delivered pursuant to **Section 7.03** of the Credit Agreement. All terms used in this certificate have the meanings given in the Credit Agreement.

Borrower certifies that the Current Financials have been prepared in accordance with GAAP and fairly present in all material respects the consolidated financial condition of Borrower as of the date thereof, subject in the case of unaudited statements to changes resulting from audit and normal year-end adjustment.

Defaults. (Check one):

Borrower further certifies that:

- Except as previously reported in writing to the Lender, there exists no event or circumstance which is or which with the passage of time, the giving of notice, or both would constitute an Event of Default, as that term is defined in the Agreement, or, if such an event of circumstance exists, a writing attached hereto specifies the nature thereof, the period of existence thereof and the action that Borrower has taken or proposes to take with respect thereto.
 - There exists no event or circumstance which is or which with the passage of time, the giving of notice, or both would constitute an Event of Default, as that term is defined in the Agreement, or, if such an event of circumstance exists, a writing attached hereto specifies the nature thereof, the period of existence thereof and the action that Borrower has taken or proposes to take with respect thereto.
-

representations and Warranties:

Borrower further certifies that each of the representations and warranties made by Borrower, any Subsidiary and/or any Owner of Borrower in the Credit Agreement and/or in any other Loan Document are true and correct in all material respects on and as of the date of this Compliance Certificate as if made on and as of the date of this Compliance Certificate (and for purposes of this Compliance Certificate, the representations and warranties made by Borrower in **Section 9.01** of the Credit Agreement shall be deemed to refer to the financial statements of Borrower delivered to the Lender with this Compliance Certificate).

Financial Covenants. Borrower further certifies as follows:

1. Minimum Fixed Charge Coverage. Pursuant to **Section 12.01** of the Credit Agreement, as of the Reporting Date, Borrower's Fixed Charge Coverage was _____ to 1.00 which satisfies does not satisfy the requirement that such ratio be no less than 1.05 to 1.00 on the Reporting Date.

Attached hereto are all relevant facts in reasonable detail to evidence, and the computations of the financial covenants referred to above. These computations were made in accordance with GAAP, subject to normal year-end adjustments and absence of footnotes.

PRECISION INDUSTRIES, INC.,
a Pennsylvania corporation

By____
Name:____
Title:____

Signature page to Form of Compliance Certificate

EXHIBIT B

FORM OF BORROWING BASE CERTIFICATE

TRADEMARK SECURITY AGREEMENT

This Trademark Security Agreement (“**Trademark Security Agreement**”), dated as of January 20, 2022, is made by and between Precision Industries, Inc., a Pennsylvania corporation (“**Grantor**”), and Fifth Third Bank, National Association (the “**Secured Party**”).

Grantor and Secured Party have entered into a Credit and Security Agreement dated of even date herewith (the “**Credit Agreement**”).

Under the terms of the Credit Agreement, Grantor has granted to Secured Party a security interest in, among other property, certain intellectual property of Grantor, and has agreed to execute and deliver this Trademark Security Agreement, for recording with national, federal and state government authorities, including, but not limited to, the United States Patent and Trademark Office.

Grantor and Secured Party therefore agree as follows:

1. Grant of Security. In order to secure the prompt payment and performance of all “Obligations” (as defined in the Credit Agreement), Grantor hereby grants to Secured Party a security interest in and to all of the right, title and interest of Grantor in, to and under the following, wherever located, and whether now existing or hereafter arising or acquired from time to time (the “**Trademark Collateral**”):

(a) the trademark registrations, trademark applications, and trademark licenses set forth in **Schedule 1** hereto, together with the goodwill connected with the use of and symbolized thereby and all extensions and renewals thereof (the “**Trademarks**”), excluding only United States intent-to-use trademark applications to the extent that and solely during the period in which the grant of a security interest therein would impair, under applicable federal law, the registrability of such applications or the validity or enforceability of registrations issuing from such applications;

(b) all rights of any kind whatsoever of Grantor accruing under any of the foregoing provided by applicable law of any jurisdiction, by international treaties and conventions and otherwise throughout the world;

(c) any and all royalties, fees, income, payments and other proceeds now or hereafter due or payable with respect to any and all of the foregoing; and

(d) any and all claims and causes of action, with respect to any of the foregoing, whether occurring before, on or after the date hereof, including all rights to and claims for damages, restitution and injunctive and other legal and equitable relief for past, present and future infringement, misappropriation, violation, misuse, breach or default, with the right but no obligation to sue for such legal and equitable relief and to collect, or otherwise recover, any such damages.

2. Recordation. Grantor authorizes the Commissioner for Trademarks and any other government officials to record and register this Trademark Security Agreement upon Secured Party's request.

3. Loan Documents. This Trademark Security Agreement has been entered into pursuant to and in conjunction with the Credit Agreement, which is hereby incorporated by reference. The provisions of the Credit Agreement shall supersede and control over any conflicting or inconsistent provision herein. The rights and remedies of Secured Party with respect to the Trademark Collateral are as provided by the Credit Agreement and related documents, and nothing in this Trademark Security Agreement shall be deemed to limit such rights and remedies.

4. Execution in Counterparts. This Trademark Security Agreement may be executed in counterparts (and by different parties hereto in different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. Delivery of an executed counterpart of a signature page to this Trademark Security Agreement by facsimile or in electronic (i.e., "pdf" or "tif" format) shall be effective as delivery of a manually executed counterpart of this Trademark Security Agreement.

5. Successors and Assigns. This Trademark Security Agreement will be binding on and shall inure to the benefit of the parties hereto and their respective successors and assigns.

6. Governing Law. This Trademark Security Agreement and any claim, controversy, dispute or cause of action (whether in contract or tort or otherwise) based upon, arising out of or relating to this Trademark Security Agreement and the transactions contemplated hereby and thereby shall be governed by, and construed in accordance with, the laws of the State of Illinois.

[signature page to follow]

Grantor and Secured Party have executed this Trademark Security Agreement as of the date set forth in the introductory paragraph.

SECURED PARTY

FIFTH THIRD BANK, NATIONAL ASSOCIATION

By:

Print Name: Jeffrey Seiden
Title: Senior Vice President

GRANTOR

PRECISION INDUSTRIES, INC.,
a Pennsylvania corporation

By:

Print Name:
Title:

Signature Page to Trademark Security Agreement (Precision Industries, Inc.)

SCHEDULE 1

TRADEMARK REGISTRATIONS, APPLICATIONS, AND LICENSES

Trademark	Registration #	Issue Date	Owner
NUTEC	1764041	04/13/1993	Precision Industries, Inc.
SUPER 7 MQ	1841645	06/28/1994	Precision Industries, Inc.
MASRHALLOY MQ	1804113	11/16/1993	Precision Industries, Inc.

GUARANTY

This Guaranty (“**Guaranty**”), dated as of January 20, 2022, is made by Precision Affiliated Holdings LLC, a Delaware limited liability company (the “**Guarantor**”), for the benefit of Fifth Third Bank, National Association (with its participants, successors and permitted assigns, “**Lender**”).

Lender and Precision Industries, Inc., a Pennsylvania corporation (“**Borrower**”) are parties to a Credit and Security Agreement of even date herewith (as the same may be amended, supplemented or restated from time to time, the “**Credit Agreement**”) pursuant to which Lender may make advances and extend other financial accommodations to the Borrower.

As a condition to extending such credit to the Borrower, Lender has required the execution and delivery of this Guaranty.

ACCORDINGLY, the Guarantor, in consideration of the premises and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, hereby agrees as follows:

1. Definitions. All terms defined in the Credit Agreement that are not otherwise defined herein shall have the meanings given them in the Credit Agreement.

2. Obligations Guaranteed. The Guarantor hereby absolutely and unconditionally guarantees to Lender the full and prompt payment and performance when due, whether at maturity or earlier by reason of acceleration or otherwise, of the Obligations.

3. Guarantor’s Representations and Warranties. The Guarantor represents and warrants to Lender that (a) the Guarantor is duly incorporated or organized as applicable and existing in good standing under the laws of the jurisdiction of its incorporation or organization, the Guarantor is duly qualified and in good standing in all states where the nature and extent of the business transacted by Guarantor or the ownership of Guarantor’s assets make such qualification necessary or, if Guarantor is not so qualified, Guarantor may cure any such failure without losing any of its rights, incurring any liens or material penalties, or otherwise affecting Lender’s rights, and the Guarantor has full power and authority to make and deliver this Guaranty; (b) the execution, delivery and performance of this Guaranty by the Guarantor have been duly authorized and does not and will not violate the provisions of, or constitute a default under, any presently applicable law or its constituent documents or any agreement presently binding on it, except for conflicts with agreements, contracts or other documents which would not have a Material Adverse Effect; (c) this Guaranty has been duly executed and delivered by the authorized officers of the Guarantor and is the legal, valid and binding obligation of Guarantor and is enforceable against Guarantor in accordance with its terms subject to limitations as to enforceability which might result from bankruptcy, insolvency, moratorium and other similar laws affecting creditors’ rights generally and subject to limitations on the availability of equitable remedies; (d) the authorization,

execution, delivery and performance of this Guaranty do not require notification to, registration with, or consent or approval by, any federal, state or local regulatory body or administrative agency and (e) neither the Guarantor nor any of its Subsidiaries is an "investment company", as such term is defined in the Investment Company Act of 1940 (the "**1940 Act**"), nor is subject to any regulation under the 1940 Act. The Guarantor represents and warrants to Lender that the Guarantor has a direct and substantial economic interest in the Borrower and expects to derive substantial benefits therefrom and from any loans, credit transactions, financial accommodations, discounts, purchases of property and other transactions and events resulting in the creation of the Obligations guaranteed hereby, and that this Guaranty is given for a corporate purpose. Lender may rely conclusively on a continuing warranty, hereby made, that the Guarantor continues to be benefited by this Guaranty and Lender shall have no duty to inquire into or confirm the receipt of any such benefits, and this Guaranty shall be effective and enforceable by Lender without regard to the receipt, nature or value of any such benefits.

4.Unconditional Nature. No act or thing need occur to establish the Guarantor's liability hereunder, and no act or thing, except full payment, performance, and discharge of all of the Obligations (other than contingent Obligations which expressly survive termination of this Agreement and for which no claim has been made), shall in any way exonerate the Guarantor hereunder or modify, reduce, limit or release the Guarantor's liability hereunder. This is an absolute, unconditional and continuing guaranty of payment and performance of the Obligations and shall continue to be in force and be binding upon the Guarantor, until all of the Obligations are paid in full (other than contingent Obligations which expressly survive termination of this Agreement and for which no claim has been made), at which time, subject to Section 10, this Guaranty shall immediately and automatically terminate, without the consent of or action by any other Person.

5.Dissolution or Insolvency of Guarantor. The dissolution or adjudication of bankruptcy of the Guarantor will not revoke this Guaranty, except upon actual receipt of written notice thereof by Lender and only prospectively, as to future transactions, as herein set forth. If the Guarantor dissolves or becomes insolvent (however defined), then Lender will have the right to declare immediately due and payable, and the Guarantor shall pay to Lender the full amount of all of the Obligations, whether due and payable or unmatured. If the Guarantor voluntarily commences or there is commenced involuntarily against the Guarantor a case under the United States Bankruptcy Code, the full amount of all Obligations, whether due and payable or unmatured, will be immediately due and payable without demand or notice thereof.

6.Subrogation, etc. The Guarantor hereby waives all rights that the Guarantor may now have or hereafter acquire, whether by subrogation, contribution, reimbursement, recourse, exoneration, contract or otherwise, to recover from the Borrower or from any property of the Borrower any sums paid under this Guaranty, unless and until Lender shall have received payment in full of all of the Obligations (other than contingent Obligations which expressly survive termination of this Agreement and for which no claim has been made). The Guarantor will not exercise or enforce any right of contribution to recover any such sums from any person who is a co-obligor with the Borrower or a guarantor or surety of the Obligations or from any property of any such person until all of the Obligations shall have been fully paid and discharged (other than contingent Obligations which expressly survive termination of this Agreement and for which no claim has been made).

7.Enforcement Expenses. The Guarantor will pay or reimburse Lender for all costs, expenses and reasonable and documented outside attorneys' fees paid or incurred by Lender in endeavoring to collect and enforce the Obligations and in enforcing this Guaranty.

8.Lender's Rights. Lender shall not be obligated by reason of its acceptance of this Guaranty to engage in any transactions with or for the Borrower. Whether or not any existing relationship between the Guarantor and the Borrower has been changed or ended and whether or not this Guaranty has been revoked, Lender may enter into transactions resulting in the creation or continuance of the Obligations and may otherwise agree, consent to or suffer the creation or continuance of any of the Obligations, without any consent or approval by the Guarantor and without any prior or subsequent notice to the Guarantor. The Guarantor's liability shall not be affected or impaired by any of the following acts or things (which Lender is expressly authorized to do, omit or suffer from time to time, both before and after revocation of this Guaranty, without consent or approval by or notice to the Guarantor): (a) any acceptance of collateral security, guarantors, accommodation parties or sureties for any or all of the Obligations; (b) one or more extensions or renewals of the Obligations (whether or not for longer than the original period) or any modification of the interest rates, maturities, if any, or other contractual terms applicable to any of the Obligations or any amendment or modification of any of the terms or provisions of any loan agreement or other agreement under which the Obligations or any part thereof arose; (c) any waiver or indulgence granted to the Borrower, any delay or lack of diligence in the enforcement of the Obligations or any failure to institute proceedings, file a claim, give any required notices or otherwise protect any of the Obligations; (d) any full or partial release of, compromise or settlement with, or agreement not to sue, the Borrower or any guarantor or other person liable in respect of any of the Obligations; (e) any release, surrender, cancellation or other discharge of any evidence of the Obligations or the acceptance of any instrument in renewal or substitution therefor; (f) any failure to obtain collateral security (including rights of setoff) for the Obligations, or to see to the proper or sufficient creation and perfection thereof, or to establish the priority thereof, or to preserve, protect, insure, care for, exercise or enforce any collateral security; or any modification, alteration, substitution, exchange, surrender, cancellation, termination, release or other change, impairment, limitation, loss or discharge of any collateral security; (g) any collection, sale, lease or disposition of, or any other foreclosure or enforcement of or realization on, any collateral security; (h) any assignment, pledge or other transfer of any of the Obligations or any evidence thereof; (i) any manner, order or method of application of any payments or credits upon the Obligations; and (j) any election by Lender under Section 1111(b) of the United States Bankruptcy Code. Subject to Section 9, the Guarantor waives any and all defenses and discharges available to a surety, guarantor or accommodation co-obligor.

9.Waivers by Guarantor. The Guarantor waives any and all defenses, claims, setoffs and discharges of the Borrower, or any other obligor, pertaining to the Obligations, except the defense of discharge by payment in full of the Obligations. Without limiting the generality of the foregoing, the Guarantor will not assert, plead or enforce against Lender any defense of waiver, release, discharge or disallowance in bankruptcy, statute of limitations, res judicata, statute of frauds, anti-deficiency statute, fraud, incapacity, minority, usury, illegality or unenforceability which may be available to the Borrower or any other person liable in respect of any of the Obligations, or any setoff available against Lender to the Borrower or any other such person. The Guarantor expressly agrees that the Guarantor shall be and remain liable for any deficiency remaining after foreclosure of any mortgage or security interest securing the Obligations, whether

or not the liability of the Borrower or any other obligor for such deficiency is discharged pursuant to statute or judicial decision. The liability of the Guarantor shall not be affected or impaired by any voluntary or involuntary liquidation, dissolution, sale or other disposition of all or substantially all of the assets, marshalling of assets and liabilities, receivership, insolvency, bankruptcy, assignment for the benefit of creditors, reorganization, arrangement, composition or readjustment of, or other similar event or proceeding affecting, the Borrower or any of its assets. Except as expressly set forth herein, the Guarantor will not assert, plead or enforce against Lender any claim, defense or setoff available to the Guarantor against the Borrower. The Guarantor waives presentment, demand for payment, notice of dishonor or nonpayment and protest of any instrument evidencing the Obligations. Lender shall not be required first to resort for payment of the Obligations to the Borrower or other persons, or their properties, or first to enforce, realize upon or exhaust any collateral security for the Obligations, before enforcing this Guaranty.

10.If Payments Set Aside, etc. If any payment applied by Lender to the Obligations is thereafter set aside, recovered, rescinded or required to be returned for any reason (including, without limitation, the bankruptcy, insolvency or reorganization of the Borrower or any other obligor), the Obligations to which such payment was applied shall for the purpose of this Guaranty be deemed to have continued in existence, notwithstanding such application, and this Guaranty shall be enforceable as to such Obligations as fully as if such application had never been made.

11.Additional Obligations of Guarantor. The Guarantor's liability under this Guaranty is in addition to and shall be cumulative with all other liabilities of the Guarantor to Lender as guarantor, surety, endorser, accommodation co-obligor or otherwise of any of the Obligations or obligation of the Borrower, without any limitation as to amount, unless the instrument or agreement evidencing or creating such other liability specifically provides to the contrary. Guarantor hereby covenants and agrees to not engage in any business activities, hold any assets or incur any Indebtedness other than (a) acting as a holding company for Borrower and transactions incidental thereto, (b) entering into the Loan Documents, the Management Agreement and the Subordinated Debt Documents, (c) entering into the agreements related to and consummating the acquisition by the Guarantor of the Borrower, (d) receiving and distributing the dividends, distributions and payments permitted to be made to Holdings pursuant to Section 11.05 of the Credit Agreement, and (e) owning the Equity Interests of Borrower. Guarantor shall preserve, renew and keep in full force and effect its existence. Guarantor shall not merge or consolidate with or into any other Person or transfer the Equity Interests of Borrower to any Person.

12.Financial Information. The Guarantor will deliver to Lender all financial information concerning the Guarantor (but excluding financial statements) as may be reasonably requested from time to time by Lender.

13.No Duties Owed by Lender. The Guarantor acknowledges and agrees that Lender (a) has not made any representations or warranties with respect to, (b) does not assume any responsibility to the Guarantor for, and (c) has no duty to provide information to the Guarantor regarding, the enforceability of any of the Obligations or the financial condition of the Borrower or any guarantor. The Guarantor has independently determined the creditworthiness of the Borrower and the enforceability of the Obligations and until the Obligations is paid in full will independently and without reliance on Lender continue to make such determinations.

14.Notices. All written notices and other written communications with respect to this Guaranty shall be sent by ordinary, certified or overnight mail, by email, or delivered in person, to the following addresses or email addresses:

Guarantor: Precision Affiliated Holdings LLC
99 Berry Road
Washington, PA 15301
Attn: Eric Althofer

With a copy to:

K&L Gates LLP
300 South Tryon Street, Suite 1000
Charlotte, North Carolina 28202
Attn: Aaron S. Rothman, Esq.
Email: Aaron.Rothman@klgates.com

Lender: Fifth Third Bank, National Association
6111 N. River Road
Rosemont, IL 60018
Attn: Mr. Richard Sitz
Email: Richard.Sitz@53.com

With a copy to:

Thompson Coburn LLP
55 E. Monroe Street, 37th Floor
Chicago, Illinois 60603
Attn: Mr. Victor A. DesLaurier, Esq.
Email: vdeslaurier@thompsoncoburn.com

Guarantor agrees that notices and other communications to it hereunder may be delivered or furnished by electronic communication (including e-mail and Internet or intranet websites) pursuant to procedures approved by Lender and such electronic communication shall have the same force and effect that the same submissions would have had if they had been submitted in any other applicable form authorized, required or contemplated by this Guaranty. All notices shall be deemed received upon actual receipt thereof or refusal of delivery.

15.Miscellaneous. This Guaranty shall be effective upon execution by all parties hereto, shall be binding upon the Guarantor and the successors and assigns of the Guarantor and shall inure to the benefit of Lender and its participants, successors and assigns. Any invalidity or unenforceability of any provision or application of this Guaranty shall not affect other lawful provisions and application thereof, and to this end the provisions of this Guaranty are declared to be severable. This Guaranty may not be waived, modified, amended, terminated, released or otherwise changed except by a writing signed by the Guarantor and Lender. This Guaranty shall be governed by and construed in accordance with the substantive laws (other than conflict laws) of the State of Illinois. The Guarantor hereby (a) consents to the personal jurisdiction of the state

and federal courts located in the State of Illinois, in connection with any controversy related to this Guaranty; (b) waives any argument that venue in any such forum is not convenient, (c) agrees that any litigation initiated by Lender or the Guarantor in connection with this Guaranty may be venued in either the state or federal courts located in the City of Chicago, Illinois; and (d) agrees that a final judgment in any such suit, action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law.

16. Waiver of Jury Trial. THE GUARANTOR AND THE LENDER EACH IRREVOCABLY WAIVE ALL RIGHTS TO TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM ARISING OUT OF, BASED ON OR PERTAINING TO THIS GUARANTY.

[Signature page to follow]

This Guaranty has been duly executed by the Guarantor as of the date set forth above.

PRECISION AFFILIATED HOLDINGS LLC,
a Delaware limited liability company

By: _____
Name: _____
Title: _____

Acknowledged and Agreed:

Lender:

FIFTH THIRD BANK, NATIONAL ASSOCIATION

By: _____
Name: _____
Title: _____

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GUARANTOR SECURITY AGREEMENT

This Guarantor Security Agreement, dated as of January 20, 2022 (“**Agreement**”), is made by and between Precision Affiliated Holdings LLC, a Delaware limited liability company (the “**Guarantor**”), and Fifth Third Bank, National Association (“**Lender**”).

Pursuant to a Credit and Security Agreement of even date herewith (as the same may be amended, supplemented or restated from time to time, the “**Credit Agreement**”), Lender may extend credit accommodations to Precision Industries, Inc., a Pennsylvania corporation (the “**Borrower**”).

As a condition to extending credit to the Borrower, Lender has required the execution and delivery of the Guarantor’s Guaranty of even date herewith, guaranteeing the payment and performance of all obligations of the Borrower arising under or pursuant to the Credit Agreement (the “**Guaranty**”).

As a further condition to extending credit to the Borrower under the Credit Agreement, Lender has required the execution and delivery of this Agreement by the Guarantor.

In consideration of the mutual covenants contained in the Credit Agreement, the Guaranty and herein, the parties hereby agree as follows:

1. Definitions. All terms defined in the recitals hereto and the Credit Agreement that are not otherwise defined herein shall have the meanings given them in the recitals and the Credit Agreement. All terms defined in the UCC and not otherwise defined herein have the meanings assigned to them in the UCC. In addition, the following terms have the meanings set forth below or in the referenced Section of this Agreement:

“**Collateral**” means, whether now owned or existing or hereafter acquired or arising or in which the Guarantor now has or hereafter acquires any rights, all of the Guarantor’s Accounts, chattel paper, deposit accounts, documents, Equipment, General Intangibles, goods, instruments, Inventory, Investment Property, letter-of-credit rights, letters of credit, all sums on deposit in any Collection Account, and any items in any Lockbox; together with (i) all substitutions and replacements for and products of any of the foregoing; (ii) in the case of all goods, all accessions; (iii) all accessories, attachments, parts, equipment and repairs now or hereafter attached or affixed to or used in connection with any goods; (iv) all warehouse receipts, bills of lading and other documents of title now or hereafter covering such goods; (v) all collateral subject to the Lien of Lender; (vi) any money, or other assets of the Guarantor that now or hereafter come into the possession, custody, or control of Lender; and (vii) proceeds of any and all of the foregoing.

“**Event of Default**” has the meaning given in **Section 6**.

“**Intellectual Property Rights**” means all actual or prospective rights arising in connection with any intellectual property or other proprietary rights, including all rights arising in connection with copyrights, patents, service marks, trade dress, trade secrets, trademarks, trade names or mask works.

“Permitted Liens” means (i) the Security Interest, (ii) covenants, restrictions, rights, easements and minor irregularities in title which do not materially interfere with the Guarantor’s business or operations as presently conducted, (iii) Liens in existence on the date hereof and described on Exhibit C hereto, (iv) Liens or security interests in favor of Lender, (v) Liens specifically permitted by Lender in writing, (vi) involuntary Liens securing amounts less than \$250,000 and which are released or for which a bond acceptable to Lender, in its sole discretion, has been posted within ten (10) days of its creation, (vii) Liens for taxes, assessments and other government charges or levies not yet due and payable or which are being contested in good faith and by appropriate proceedings and for which the Guarantor has maintained adequate reserves in accordance with GAAP, (viii) Liens of collecting banks under the UCC on items in the course of collection, statutory Liens and rights of set-off of banks, (ix) pledges and deposits in the ordinary course of business securing insurance premiums or reimbursement obligations or indemnification obligations under insurance policies or self-insurance arrangements, in each case payable to insurance carriers that provide insurance to the Guarantor or any or any Subsidiary of the Guarantor, and (x) Liens on cash and cash equivalents on deposit with Lender and Affiliates of Lender securing obligations owing to such Persons under any treasury, depository, overdraft or other cash management services agreements or arrangements with the Guarantor or any Subsidiary of Guarantor.

“Security Interest” has the meaning given in **Section 2**.

“UCC” means the Uniform Commercial Code as in effect from time to time in the State of Illinois.

2.Security Interest. The Guarantor hereby grants Lender a security interest (the **“Security Interest”**) in the Collateral to secure payment of the Obligations.

3.Representations, Warranties and Agreements. The Guarantor hereby represents, warrants and agrees as follows:

(a)Title. The Guarantor (i) has absolute title to each item of Collateral in existence on the date hereof, free and clear of all Liens except the Permitted Liens, (ii) will have, at the time the Guarantor acquires any rights in Collateral hereafter arising, absolute title to each such item of Collateral free and clear of all Liens except Permitted Liens and (iii) will keep all Collateral free and clear of all Liens except Permitted Liens. The Guarantor will not sell or otherwise dispose of the Collateral or any interest therein, outside the ordinary course of business, without the prior written consent of Lender.

(b)Chief Executive Office; Identification Number. The Guarantor’s chief executive office and principal place of business is located at the address set forth under its signature below. The Guarantor’s federal employer identification number and organization identification number is correctly set forth under its signature below.

(c)Location of Collateral. As of the date hereof, the tangible Collateral is located only in the states and at the address, as identified on Exhibit A attached hereto. The Guarantor will not permit any tangible Collateral to be located in any state (and, if county

filing is required, in any county) in which a financing statement covering such Collateral is required to be, but has not in fact been, filed in order to perfect the Security Interest.

(d)Changes in Name, Constituent Documents, Location. The Guarantor shall not amend its organizational documents in a manner adverse to the Lender's interest in any respect unless (a) such amendment would not have a Material Adverse Effect; (b) such amendment would not adversely affect Lender; and (c) Lender has received ten (10) days prior written notice of such amendment. The Guarantor will not change its name, business address or jurisdiction of organization, without prior written notice to Lender.

(e)Fixtures. The Guarantor will not permit any tangible Collateral to become part of or to be affixed to any real property without first assuring to the reasonable satisfaction of Lender that the Security Interest will be prior and senior to any Lien then held or thereafter acquired by any mortgagee of such real property or the owner or purchaser of any interest therein. If any part or all of the tangible Collateral is now or will become so related to particular real estate as to be a fixture, the real estate concerned and the name of the record owner are accurately set forth in Exhibit B hereto.

(f)Rights to Payment. Each right to payment and each instrument, document, chattel paper and other agreement constituting or evidencing Collateral is (or will be when arising, issued or assigned to Lender) the valid, genuine and legally enforceable obligation, subject to no defense, setoff or counterclaim (other than those arising in the ordinary course of business), of the account debtor or other obligor named therein or in the Guarantor's records pertaining thereto as being obligated to pay such obligation. The Guarantor will neither agree to any material modification or amendment nor agree to any forbearance, release or cancellation of any such obligation, and will not subordinate any such right to payment to claims of other creditors of such account debtor or other obligor.

(g)Commercial Tort Claims. Promptly upon knowledge thereof, the Guarantor will deliver to Lender notice of any commercial tort claims it may bring in an aggregate value in excess of \$100,000 against any Person, including the name and address of each defendant, a summary of the facts, an estimate of the Guarantor's damages, copies of any complaint or demand letter submitted by the Guarantor, and such other information as Lender may request. Upon request by Lender, the Guarantor will grant Lender a security interest in all commercial tort claims it may have against any Person.

(h)Miscellaneous Covenants. The Guarantor will:

(i)keep all tangible Collateral in good condition, repair and order, ordinary wear and tear excepted, and shall make all required repairs to the Equipment and replacements thereof in a manner that Guarantor reasonably believes will cause the operating efficiency and the value thereof to be preserved and maintained in all material respects;

(ii)promptly pay all taxes and other governmental charges levied or assessed upon or against any Collateral or upon or against the creation, perfection

or continuance of the Security Interest; provided, that Guarantor shall have the right to contest the payment of such taxes in good faith by appropriate proceedings, pursuant to the conditions set forth in Section 10.08 of the Credit Agreement;

(iii) permit Lender, or any Persons designated by it, upon reasonable advance notice to Guarantor if no Default Period then exists, to call at Guarantor's places of business at any reasonable times, and, without hindrance or delay, to inspect the Collateral and to inspect, audit, check and make extracts from Guarantor's books, records, journals, orders, receipts and any correspondence and other data relating to Guarantor's business, the Collateral or any transactions between the parties hereto, and shall have the right to make such verification concerning Guarantor's business as Lender may consider reasonable under the circumstances. Guarantor shall furnish to Lender such information relevant to Lender's rights under the Loan Documents as Lender shall at any time and from time to time reasonably request. Lender, through its officers, employees or agents shall have the right, at any time and from time to time, in Lender's name, to verify the validity, amount or any other matter relating to any of Guarantor's Accounts, by mail, telephone, telecopy, electronic mail, or otherwise, provided that prior to the occurrence of an Event of Default, Lender shall conduct such verification in the name of a nominee of Lender or in Guarantor's name;

(iv) keep accurate and complete records pertaining to the Collateral and pertaining to the Guarantor's business and financial condition and submit to Lender such periodic reports concerning the Collateral and the Guarantor's business and financial condition as Lender may from time to time reasonably request;

(v) promptly notify Lender of any loss of or material damage to any Collateral or of any adverse change, known to the Guarantor, in the prospect of payment of any sums due on or under any instrument, chattel paper, or account constituting Collateral;

(vi) if Lender at any time so requests (after the occurrence and during the continuance of an Event of Default), promptly deliver to Lender any instrument, document or chattel paper constituting Collateral, duly endorsed or assigned by the Guarantor;

(vii) at all times keep all tangible Collateral insured against risks of fire (including so-called extended coverage), theft, collision (in case of Collateral consisting of motor vehicles) and such other risks and in such amounts as Lender may reasonably request, and all policies of such insurance shall contain a lender's loss payable endorsement for the Lender's benefit or an endorsement showing Lender as additional insured;

(viii) from time to time authorize or execute such financing statements as Lender may reasonably require in order to perfect the Security Interest and, if any Collateral consists of a motor vehicle, execute such documents as may be required to have the Security Interest properly noted on a certificate of title;

(ix) pay when due or reimburse Lender on demand for all costs of collection of any of the Obligations and all other reasonable and documented costs and expenses (including in each case all reasonable attorneys' fees for outside counsel) incurred by Lender in connection with the creation, perfection, satisfaction, protection, defense or enforcement of the Security Interest or the creation, continuance, protection, defense or enforcement of this Agreement or any or all of the Obligations, including expenses incurred in any litigation or bankruptcy or insolvency proceedings;

(x) authorize, execute, deliver or endorse any and all instruments, documents, assignments, security agreements and other agreements and writings which Lender may at any time reasonably request in order to secure, protect or perfect the Security Interest and Lender's rights under this Agreement; and

(xi) not use or keep any Collateral, or permit it to be used or kept, for any unlawful purpose or in violation of any federal, state or local law, statute or ordinance.

(i) Lender's Right to Take Action. The Guarantor authorizes Lender to file from time to time where permitted by law, such financing statements against collateral described as "all personal property" as Lender deems necessary or useful to perfect the Security Interest. The Guarantor will not amend any financing statements in favor of Lender except as permitted by law. Further, if the Guarantor at any time fails to perform or observe any agreement contained in **Section 3(h)**, and if such failure continues for a period of ten (10) days after Lender gives the Guarantor written notice thereof (or, in the case of the agreements contained in clauses (vii) and (viii) of **Section 3(h)**, immediately upon the occurrence of such failure, without notice or lapse of time), Lender may (but need not) perform or observe such agreement on behalf and in the name, place and stead of the Guarantor (or, at Lender's option, in Lender's own name) and may (but need not) take any and all other actions which Lender may reasonably deem necessary to cure or correct such failure (including, without limitation the payment of taxes, the satisfaction of security interests, liens, or encumbrances, the performance of obligations under contracts or agreements with account debtors or other obligors, the procurement and maintenance of insurance, the execution of financing statements, the endorsement of instruments, the qualification and licensing of the Guarantor to do business in any jurisdiction, and the procurement of repairs or transportation); and, except to the extent that the effect of such payment would be to render any loan or forbearance of money usurious or otherwise illegal under any applicable law, the Guarantor shall thereupon pay Lender on demand the amount of all moneys expended and all reasonable and documented costs and expenses (including reasonable and documented outside attorneys' fees) incurred by Lender in connection with or as a result of Lender's performing or observing such agreements or taking such actions, together with interest thereon from the date expended or incurred by Lender at the highest rate then applicable to any of the Obligations. To facilitate the performance or observance by Lender of such agreements of the Guarantor, the Guarantor hereby irrevocably appoints (which appointment is coupled with an interest) Lender, or its delegate, as the attorney-in-fact of the Guarantor with the right (but not the duty) from time to time to create, prepare, complete, execute, deliver, endorse or file, in the name and on behalf of the Guarantor, any and all instruments, documents, financing statements, applications for insurance and other

agreements and writings required to be obtained, executed, delivered or endorsed by the Guarantor under this **Section 3** and **Section 4**.

4.Rights of Lender. At any time and from time to time, whether before or after an Event of Default, Lender may take any or all of the following actions:

(a)**Account Verification.** Lender may at any time and from time to time send or require the Guarantor to send requests for verification of accounts or notices of assignment to account debtors and other obligors. Lender may also at any time and from time to time telephone account debtors and other obligors to verify accounts.

(b)**Collection Account.** Lender may establish a collateral account for the deposit of checks, drafts and cash payments made by the Guarantor's account debtors. If a collateral account is so established, the Guarantor shall promptly deliver to Lender, for deposit into said collateral account, all payments on Accounts and chattel paper received by it. All such payments shall be delivered to Lender in the form received (except for the Guarantor's endorsement where necessary). Until so deposited, all payments on Accounts and chattel paper received by the Guarantor shall be held in trust by the Guarantor for and as the property of Lender and shall not be commingled with any funds or property of the Guarantor. All deposits in said collateral account shall constitute proceeds of Collateral and shall not constitute payment of any Obligation. Unless otherwise agreed in writing, the Guarantor shall have no right to withdraw amounts on deposit in any collateral account.

(c)[Reserved].

(d)**Direct Collection.** Lender may notify any account debtor, or any other Person obligated to pay any amount due, that such chattel paper, Account, or other right to payment has been assigned or transferred to Lender for security and shall be paid directly to Lender. At any time after Lender or the Guarantor gives such notice to an account debtor or other obligor, Lender may (but need not), in its own name or in the Guarantor's name, demand, sue for, collect or receive any money or property at any time payable or receivable on account of, or securing, any such chattel paper, Account, or other right to payment, or grant any extension to, make any compromise or settlement with or otherwise agree to waive, modify, amend or change the obligations (including collateral obligations) of any such account debtor or other obligor.

5.Assignment of Insurance. The Guarantor hereby assigns to Lender, as additional security for the payment of the Obligations, any and all moneys (including but not limited to proceeds of insurance and refunds of unearned premiums) due or to become due under, and all other rights of the Guarantor under or with respect to, any and all policies of insurance covering the Collateral, and the Guarantor hereby directs the issuer of any such policy to pay any such moneys directly to Lender. After the occurrence of an Event of Default, Lender may (but need not), in its own name or in the Guarantor's name, execute and deliver proofs of claim, receive all such moneys, endorse checks and other instruments representing payment of such moneys, and adjust, litigate, compromise or release any claim against the issuer of any such policy.

6.Events of Default. Each of the following occurrences shall constitute an event of default under this Agreement (herein called "**Event of Default**"): (i) an Event of Default shall

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occur under the Credit Agreement; or (ii) the Guarantor shall fail to pay any or all of the Obligations when due or (if payable on demand) on demand; or (iii) the Guarantor shall fail to observe or perform any covenant or agreement herein or in the Guaranty binding on it; provided that any such failure by Guarantor under preceding clause (iii) shall not constitute an Event of Default under: (a) Sections 3(b), 3(c), 3(d) and 3(h)(xi) of this Agreement until the 30th day following Guarantor obtaining knowledge thereof; (b) Section 3(h)(ii) of this Agreement until the 5th day following Guarantor obtaining knowledge thereof and (c), Sections 3(a) and 3(h)(i) of this Agreement, until the 10th day following Guarantor obtaining knowledge thereof.

7. Remedies upon Event of Default. Upon the occurrence of an Event of Default and at any time thereafter, Lender may exercise any one or more of the following rights and remedies: (i) declare all unmatured Obligations to be immediately due and payable, and the same shall thereupon be immediately due and payable, without presentment or other notice or demand; (ii) exercise and enforce any or all rights and remedies available upon default to a secured party under the UCC, including but not limited to the right to take possession of any Collateral, proceeding without judicial process or by judicial process, and the right to sell, lease or otherwise dispose of any or all of the Collateral, and in connection therewith, Lender may require the Guarantor to make the Collateral available to Lender at a place to be designated by Lender which is reasonably convenient to both parties, and if notice to the Guarantor of any intended disposition of Collateral or any other intended action is required by law in a particular instance, such notice shall be deemed commercially reasonable if given (in the manner specified in **Section 9**) at least ten (10) days prior to the date of intended disposition or other action; (iii) exercise or enforce any or all other rights or remedies available to Lender by law or agreement against the Collateral, against the Guarantor or against any other Person or property. Lender is hereby granted a nonexclusive, worldwide and royalty-free license to use or otherwise exploit all Intellectual Property Rights owned by or licensed to the Guarantor that Lender deems necessary or appropriate to the disposition of any Collateral.

8. Other Personal Property. Unless at the time Lender takes possession of any tangible Collateral, or within seven days thereafter, the Guarantor gives written notice to Lender of the existence of any goods, papers or other property of the Guarantor, not affixed to or constituting a part of such Collateral, but which are located or found upon or within such Collateral, describing such property, Lender shall not be responsible or liable to the Guarantor for any action taken or omitted by or on behalf of Lender with respect to such property.

9. Notices; Requests for Accounting. All notices and other communications hereunder shall be in writing and shall be (a) personally delivered, (b) sent by first class United States mail, or (c) sent by overnight courier of national reputation, in each case addressed to the party to whom notice is being given at its address as set forth below its signature or, as to each party, at such other address as may hereafter be designated by such party in a written notice to the other party complying as to delivery with the terms of this Section. All such notices, requests, demands and other communications shall be deemed to have been given on (i) the date received if personally delivered, (ii) when deposited in the mail if delivered by mail, or (iii) the date sent if sent by overnight courier. All requests under Section 9-210 of the UCC (i) shall be made in a writing signed by an authorized Person, (ii) shall be personally delivered, sent by registered or certified mail, return receipt requested, or by overnight courier of national reputation (iii) shall be deemed to be sent when received by Lender and (iv) shall otherwise comply with the requirements of Section 9-210. The Guarantor requests that Lender respond to all such requests which on their

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face appear to come from an authorized individual and releases Lender from any liability for so responding. The Guarantor shall pay Lender the maximum amount allowed by law for responding to such requests.

10. Miscellaneous. This Agreement has been duly and validly authorized by all necessary corporate action. This Agreement does not contemplate a sale of accounts, or chattel paper. This Agreement can be waived, modified, amended, terminated or discharged, and the Security Interest can be released, only explicitly in a writing signed by Lender, and, in the case of amendment or modification, in a writing signed by the Guarantor. A waiver signed by Lender shall be effective only in the specific instance and for the specific purpose given. Mere delay or failure to act shall not preclude the exercise or enforcement of any of Lender's rights or remedies. All rights and remedies of Lender shall be cumulative and may be exercised singularly or concurrently, at Lender's option, and the exercise or enforcement of any one such right or remedy shall neither be a condition to nor bar the exercise or enforcement of any other. Lender's duty of care with respect to Collateral in its possession (as imposed by law) shall be deemed fulfilled if Lender exercises reasonable care in physically safekeeping such Collateral or, in the case of Collateral in the custody or possession of a bailee or other third person, exercises reasonable care in the selection of the bailee or other third person, and Lender need not otherwise preserve, protect, insure or care for any Collateral. Lender shall not be obligated to preserve any rights the Guarantor may have against prior parties, to realize on the Collateral at all or in any particular manner or order, or to apply any cash proceeds of Collateral in any particular order of application. This Agreement shall be binding upon and inure to the benefit of the Guarantor and Lender and their respective successors and assigns and shall take effect when signed by the Guarantor and delivered to Lender, and the Guarantor waives notice of Lender's acceptance hereof. A carbon, photographic or other reproduction of this Agreement or of any financing statement signed by the Guarantor shall have the same force and effect as the original for all purposes of a financing statement. This Agreement shall be governed by and construed in accordance with the substantive laws (other than conflict laws) of the State of Illinois. If any provision or application of this Agreement is held unlawful or unenforceable in any respect, such illegality or unenforceability shall not affect other provisions or applications which can be given effect and this Agreement shall be construed as if the unlawful or unenforceable provision or application had never been contained herein or prescribed hereby. All representations and warranties contained in this Agreement shall survive the execution, delivery and performance of this Agreement and the creation and payment of the Obligations. The parties hereto hereby (i) consent to the personal jurisdiction of the state and federal courts located in the State of Illinois in connection with any controversy related to this Agreement; (ii) waive any argument that venue in any such forum is not convenient, (iii) agree that any litigation initiated by Lender or the Guarantor in connection with this Agreement or the other Loan Documents may be venued in either the state or federal courts located in the City of Chicago, Illinois; and (iv) agree that a final judgment in any such suit, action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law.

11. THE PARTIES WAIVE ANY RIGHT TO TRIAL BY JURY IN ANY ACTION OR PROCEEDING BASED ON OR PERTAINING TO THIS AGREEMENT.

[Signature page to follow]

The parties hereto have executed this Agreement as of the date and year first above written.

FIFTH THIRD BANK, NATIONAL ASSOCIATION

PRECISION AFFILIATED HOLDINGS LLC,
a Delaware limited liability company

By:
Name: Jeffrey Seiden
Title: Senior Vice President

By:
Name:
Title:

Address:

6111 N. River Road
Rosemont, IL 60018
Attention: Mr. Richard Sitz

Address:

c/o Live Ventures Incorporated
325 E. Warm Springs Rd., #102
Las Vegas, NV 89119
Attention: Eric Althofer

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EXHIBIT A

LOCATION OF COLLATERAL

1. 325 E. Warm Springs Rd., #102, Las Vegas, NV 89119

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EXHIBIT B
LEGAL DESCRIPTION

None.

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EXHIBIT C
PERMITTED LIENS

None.

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STOCK PLEDGE AGREEMENT

This Stock Pledge Agreement (“**Agreement**”) is made as of January 20, 2022, by Precision Affiliated Holdings LLC, a Delaware limited liability company (“**Pledgor**”), to Fifth Third Bank, National Association (“**Lender**”).

A. Lender is contemporaneously with the execution of this Agreement and/or may in the future make loans to Precision Industries, Inc., a Pennsylvania corporation (“**Borrower**”), pursuant to a Credit and Security Agreement dated as of even date herewith (as the same may be amended or otherwise modified from time to time, the “**Credit Agreement**”). All capitalized terms used but not otherwise defined herein shall have the meaning ascribed to them in the Credit Agreement.

B. The extension and/or continued extension of credit, as aforesaid, by Lender is necessary and desirable to the conduct and operation of the business of Issuer and will inure to the personal and financial benefit of Pledgor.

C. It is a condition precedent to the Credit Agreement that the Pledgor shall make the pledge contemplated by this Agreement.

In consideration of the premises and in order to induce the Lender to enter into the Credit Agreement, the Pledgor hereby agrees as follows:

1. **Pledge.** The Pledgor hereby pledges to the Lender and grants to the Lender a security interest in all of the Pledgor’s now owned or hereinafter acquired right, title and interest in and to the following (the “**Pledged Collateral**”):

(a) the Shares of stock described on Schedule 1 and issued by the issuers named therein and any additional shares of stock issued by any such issuer to Pledgor (the “**Shares**”), and the certificates, instruments and agreements representing the Shares;

(b) any and all warrants, rights or options to purchase any shares of capital stock of any issuer of Shares;

(c) the proceeds, if and when received, of the Shares and other instruments and documents representing the Shares, and all dividends, cash, instruments and other property from time to time received, receivable or otherwise distributed in respect of or in exchange for any or all of the Shares;

(d) the proceeds, if and when received, of all additional shares of stock of any issuer of the Shares from time to time acquired by the Pledgor in any manner, the certificates and other instruments and documents representing such additional shares, and all dividends, cash, instruments and other property from time to time received, receivable or otherwise distributed in respect of or in exchange for any or all of such shares;

(e)the proceeds, if and when received, of all shares of stock from time to time received or acquired by the Pledgor in any manner resulting from the acquisition or formation by the issuer of the Shares of a subsidiary, the certificates and other instruments and documents representing such shares and all dividends, cash, instruments and other property from time to time received, receivable or otherwise distributed in respect of or in exchange for any or all of such shares; and

(f)all other property hereafter delivered to the Lender in substitution for or in addition to any of the foregoing, all certificates, certificates of deposit, notes, instruments and documents representing or evidencing such property, and all cash, securities, interest, dividends, rights and other property at any time and from time to time received, receivable or otherwise distributed in respect of or in exchange for any or all thereof.

2.Security for Obligations. This Agreement secures the payment and performance of all of the obligations and indebtedness under the Credit Agreement and of all Pledgor's obligations under this Agreement (the "**Obligations**").

3.Delivery of Pledged Collateral. All share certificates or instruments representing or evidencing the Pledged Collateral shall be delivered to and held by the Lender pursuant hereto and shall be in suitable form for transfer by delivery, or shall be accompanied by duly executed instruments of transfer or assignment in blank, all in form and substance satisfactory to the Lender. The Lender shall have the right, at any time during a Default Period, in its discretion, to transfer to or to register in the name of the Lender or any of its nominees any or all of the Pledged Collateral, provided that, at such time as the applicable Default Period is no longer continuing, all such Pledged Collateral shall revert to the name of the Borrower, and the Lender shall, at Borrower's request and at Borrower's sole cost and expense, take all actions reasonably necessary to effectuate the same.

4.Representations and Warranties. The Pledgor represents and warrants as follows:

(a)The Shares have been duly authorized and validly issued and are fully paid and non-assessable.

(b)The Pledgor is and will be at all times the legal and beneficial owner of the Shares and the Pledged Collateral free and clear of any lien, security interest, option or other charge or encumbrance, except for security interests created in favor of the Lender and any Permitted Liens.

(c)The pledge pursuant to this Agreement of any Pledged Collateral coupled with the execution of blank stock powers, creates or will create a valid and perfected first priority security interest in the Pledged Collateral, securing the payment of the Obligations.

(d)No authorization, approval or other action by, and no notice to or filing with, any governmental authority or regulatory body is required either (i) for the pledge by the Pledgor of the Pledged Collateral pursuant to this Agreement or for the execution, delivery or performance of this Agreement by the Pledgor or (ii) for the exercise by the Lender of the rights provided for in this Agreement or the remedies in respect of the Pledged Collateral pursuant to this Agreement

(except as may be required in connection with such disposition by laws affecting the foreclosure of security interests generally).

(e)The certificate numbers and other information concerning the Shares are contained in Schedule 1 attached hereto and incorporated herein.

5. Further Assurances. The Pledgor agrees that at any time and from time to time, at the expense of the Pledgor, the Pledgor will promptly execute and deliver all further instruments, certificates and documents and take all further action that Lender may deem necessary or desirable in its reasonable discretion, in order to perfect and protect any security interest granted or purported to be granted hereby or under the Loan Documents.

6. Pledgor's Rights; Dividends; Etc.

(a)Subject to the next sentence, the Pledgor shall be entitled to exercise any and all voting and other consensual rights to which it is entitled in connection with any Pledged Collateral provided such voting and other consensual rights are not exercised in a manner that would knowingly and intentionally result in an Event of Default. During a Default Period and upon three (3) days' prior written notice to Pledgor of Lender's intention to exercise such rights, Lender shall be vested with all rights of Pledgor to exercise the voting and consensual rights and powers with respect to the Pledged Collateral.

(b)So long as no Default Period then exists, the Pledgor shall be entitled to receive any and all dividends, interest or principal in respect of Pledged Collateral. Upon the occurrence and during the continuance of an Event of Default:

(i) all rights of the Pledgor to receive the interest, dividends and distributions on the Pledged Collateral which Pledgor would otherwise be authorized to receive and retain pursuant to **Section 6(b)** (other than Tax Distributions to the extent received by Pledgor in cash and promptly remitted to Pledgor's members after Pledgor's receipt thereof) shall cease, and all such rights shall thereupon become vested in the Lender which shall thereupon have the sole right to receive and hold as Pledged Collateral such dividends, interest, distributions and payments, all of which shall be applied to the Obligations in accordance with the Credit Agreement and Section 11(b) of this Agreement.

(ii)All interest, dividends, distributions and payments which are received by the Pledgor contrary to the provision of paragraph (i) of this **Section 6(b)** shall be received in trust for the benefit of the Lender, shall be forthwith paid over to the Lender as Pledged Collateral in the same form as so received (with any necessary endorsement).

(c)Notwithstanding the foregoing, if Lender has elected to exercise its rights under this Section 6, at such time that an Event of Default is no longer continuing, all rights in respect of the Shares shall revert to the Pledgor, and Lender shall, at Borrower's request and at Borrower's sole cost and expense, take all actions reasonably necessary to effectuate the same.

7. Transfers and Other Liens; Notice to Prior Secured Party. The Pledgor agrees that Pledgor will not create or permit to exist any lien, security interest, or other charge or encumbrance

upon or with respect to the Shares or any of the Pledged Collateral, except for the security interest under this Agreement and as permitted by the Credit Agreement.

8.Lender Appointed Attorney-in-Fact. Upon the occurrence of an Event of Default, the Pledgor hereby irrevocably appoints the Lender the Pledgor's attorney-in-fact, with full authority in the place and stead of the Pledgor and in the name of the Pledgor or otherwise, from time to time in the Lender's discretion, to take any action to, and to execute any financing statement, document, instrument or other instrument and do such other acts and things which the Lender may deem necessary or advisable to: (i) preserve and perfect Lender's security interest in the Pledged Collateral and (ii) demand, receive, endorse, assign, hold and collect all instruments made payable to the Pledgor representing any dividend or other distribution in respect of the Pledged Collateral or any part thereof and to give full discharge for the same.

9.Lender May Perform. If the Pledgor fails to perform any agreement contained herein (other than as set forth in Section 6 or to provide its consent to an amendment under Section 15), the Lender may itself perform, or cause performance of, such agreement, and the reasonable expenses of the Lender incurred in connection therewith shall be payable by the Pledgor in accordance with **Section 13**.

10.Reasonable Care. The Lender shall be deemed to have exercised reasonable care in the custody and preservation of the Pledged Collateral in its possession if the Pledged Collateral is accorded treatment substantially equal to that which the Lender accords its own property, it being understood that the Lender shall have no responsibility for (a) ascertaining or taking action with respect to maturities, tenders or other matters relative to any Pledged Collateral, whether or not the Lender has or is deemed to have knowledge of such matters, or (b) taking any necessary steps to preserve rights against any parties with respect to any Pledged Collateral.

11.Remedies. If any Event of Default shall have occurred and be continuing:

(a)The Lender may exercise in respect of the Pledged Collateral, in addition to other rights and remedies provided for herein and as otherwise available to it at law or in equity, all the rights and remedies of a secured party on default under the Uniform Commercial Code and the Lender may also, without notice as specified below, execute upon and apply (for itself or any designee it elects) the Pledged Collateral directly toward the payment of the Obligations, and sell the Pledged Collateral or any part thereof in one or more parcels at public or private sale, at any exchange, broker's board or at any of the Lender's offices or elsewhere, for cash, on credit or for future delivery, and at such price or prices and upon such other terms as the Lender may deem commercially reasonable. The Pledgor agrees that, to the extent notice of sale shall be required by law, at least ten (10) days' notice to the Pledgor of the time and place of any public sale and one publication in a local newspaper, or at least ten (10) days' notice of the time after which any private sale is to be made, shall constitute reasonable notification. The Lender shall not be obligated to make any sale of Pledged Collateral regardless of notice of sale having been given. The Lender may adjourn any public or private sale from time to time by announcement at the time and place fixed therefor, and such sale may, without further notice, be made at the time and place to which it was so adjourned.

(b) Any cash held by the Lender as Pledged Collateral and all cash proceeds received by the Lender in respect of any sale of, collection from, or other realization upon all or any part of the Pledged Collateral may, in the discretion of the Lender, be held by the Lender as collateral for, and then or at any time thereafter applied (after payment of any amounts payable to the Lender pursuant to **Section 13**) in whole or in part by the Lender against, all or any part of the Obligations in such order as the Lender shall elect. Any surplus of such cash or cash proceeds held by the Lender and remaining after payment in full of all the Obligations shall be paid over to the Pledgor or to whomsoever may be lawfully entitled to receive such surplus.

12. Indemnification. Neither the Lender, nor any director, officer, agent or employee of the Lender, shall be liable for any action taken or omitted to be taken by it or them hereunder or in connection therewith, except for its or their own gross negligence or willful misconduct. The Pledgor hereby agrees to indemnify and hold harmless the Lender and any such agent of Lender from and against any and all liability incurred by the Lender (or such agent) hereunder or in connection herewith, unless such liability shall be due to the gross negligence or willful misconduct on the part of the Lender or such agent.

13. Expenses. The Pledgor will upon demand pay to the Lender the amount of any and all reasonable and documented expenses, including the reasonable and documented fees and expenses of its outside counsel and of any experts and agents, which the Lender may incur in connection with (a) the custody or preservation of, or the sale of, collection from, or other realization upon, any of the Pledged Collateral, (b) the exercise or enforcement of any of the rights of the Lender hereunder, or (c) the failure by Pledgor to perform or observe any of the provisions hereof.

14. Security Interest Absolute. All rights of the Lender and security interests hereunder, and all obligations of the Pledgor hereunder, shall be absolute and unconditional irrespective of:

(i) any lack of validity or enforceability of the Credit Agreement, Loan Documents, any guaranty executed by Pledgor in favor of Lender or any other agreement or instrument relating to any of the foregoing;

(ii) any change in the time, manner or place of payment of, or in any other term of, all or any of the Obligations, or any other amendment or waiver of or any consent to any departure from the Credit Agreement, Loan Documents, any guaranty executed by Pledgor in favor of Lender;

(iii) any exchange, release or non-perfection of any other collateral, or any release or amendment or waiver of or consent to departure from any guaranty, for all or any of the Obligations; or

(iv) any other circumstance which might otherwise constitute a defense available to, or a discharge of, the Pledgor or any other pledgor or any guarantor or comaker in respect of the Obligations or the Pledgor in respect of this Agreement, other than the defense of payment in full of the Obligations.

(b)The Lender may, furthermore, from time to time, whether before or after any of the Obligations shall become due and payable, without notice to the Pledgor, take all or any of the following actions: (i) retain or obtain a security interest in any property, in addition to the Pledged Collateral, to secure any of the Obligations, (ii) retain or obtain the primary or secondary liability of any party or parties with respect to any of the Obligations, (iii) extend or renew for any period (whether or not longer than the original period) or exchange any of the Obligations or release or compromise any obligation of any nature of any party with respect thereto, (iv) surrender, release or exchange all or any part of any property, in addition to the Pledged Collateral, securing any of the Obligations, or compromise or extend or renew for any period (whether or not longer than the original period) any obligations of any nature of any party with respect to any such property, and (v) resort to the Pledged Collateral for payment of any of the Obligations whether or not it shall have resorted to any other property securing the Obligations or shall have proceeded against any party primarily or secondarily liable on any of the Obligations.

15. Amendments; Etc. No amendment or waiver of any provision of this Agreement nor consent to any departure by the Pledgor herefrom shall in any event be effective unless the same shall be in writing and signed by the Lender (and in the case of any amendment to this Agreement, the Lender and the Pledgor), and then such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given.

16. Addresses for Notices. All written notices and other written communications with respect to this Agreement shall be sent by ordinary, certified or overnight mail, by email, or delivered in person, to the address or email address specified for Lender or Pledgor, as applicable:

If to Pledgor:

Precision Affiliated Holdings LLC
99 Berry Road
Washington, PA 15301
Attn: Eric Althofer

If to Lender:

Fifth Third Bank, National Association
6111 N. River Road
Rosemont, IL 60018
Attn: Mr. Richard Sitz
Email: Richard.Sitz@53.com

Pledgor agrees that notices and other communications to it hereunder may be delivered or furnished by electronic communication (including e mail and Internet or intranet websites) pursuant to procedures approved by Lender and such electronic communication shall have the same force and effect that the same submissions would have had if they had been submitted in any other applicable form authorized, required or contemplated by the Loan Documents. All notices shall be deemed received upon actual receipt thereof or refusal of delivery.

17. Continuing Security Interest. This Agreement shall create a continuing security interest in the Pledged Collateral and shall (a) remain in full force and effect until payment in full

of the Obligations (other than contingent Obligations which expressly survive termination of this Agreement and for which no claim has been made) and the termination of any commitment by the Lender with respect thereto, (b) be binding upon the Pledgor, the Pledgor's successors, transferees and assigns, and (c) inure, together with the rights and remedies of the Lender hereunder, to the benefit of the Lender and its successors, transferees and assigns.

18. Governing Law; Terms. This Agreement shall be effective upon execution hereof by all parties hereto. Any invalidity or unenforceability of any provision or application of this Agreement shall not affect other lawful provisions and application thereof, and to this end the provisions of this Agreement are declared to be severable. This Agreement may not be waived, modified, amended, terminated, released or otherwise changed except by a writing signed by the Pledgor and the Lender. This Agreement shall be governed by and construed in accordance with the substantive laws (other than conflict laws) of the State of Illinois. The Pledgor (a) consents to the personal jurisdiction of the state and federal courts located in the State of Illinois in connection with any controversy related to this Agreement; (b) waives any argument that venue in any such forum is not convenient, (c) agrees that any litigation initiated by the Lender or the undersigned in connection with this Agreement shall be venued in either the state courts or Federal Court located in Chicago, Illinois; and (d) agrees that a final judgment in any such suit, action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law.

19. Counterparts; Integration; Effectiveness. This Agreement and any amendments, waivers, consents or supplements hereto may be executed in counterparts (and by different parties hereto in different counterparts), each of which shall constitute an original, but all taken together shall constitute a single contract. This Agreement and the other Loan Documents to which Pledgor is a party constitute the entire contract among the parties with respect to the subject matter hereof and supersede all previous agreements and understandings, oral or written, with respect thereto. Delivery of an executed counterpart of a signature page to this Agreement by facsimile or in electronic (i.e., "pdf" or "tif") format shall be effective as delivery of a manually executed counterpart of this Agreement.

20. Trial By Jury. THE PLEDGOR AND THE LENDER EACH WAIVE ANY RIGHT TO TRIAL BY JURY IN ANY CLAIM, COUNTERCLAIM, ACTION OR PROCEEDING BASED ON OR PERTAINING TO THIS AGREEMENT.

[signature page to follow]

Pledgor has executed this Agreement as of the date first written above.

PRECISION AFFILIATED HOLDINGS LLC,
a Delaware limited liability company

By:____
Name:____
Title:____

Acknowledged and Agreed:

Lender:

FIFTH THIRD BANK, NATIONAL ASSOCIATION

By: _____

Name: _____

Title: _____

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SCHEDULE 1

Non-Rule 144 Securities:

Issuer	Registered Owner	No. of Shares	Certificate Number
Precision Industries, Inc.	Precision Affiliated Holdings LLC	1000	1

STOCK POWER

FOR VALUE RECEIVED, Precision Affiliated Holdings LLC hereby sells, assigns and transfers unto ____ (____) Shares of the common stock of _____, standing in his/her/its name on the books of said corporation represented by Certificate No. _____ herewith and does hereby irrevocably constitute and appoint _____ attorney to transfer the said stock on the books of the within named Issuer with full power of substitution in the premises.

Dated _____, _____

PRECISION AFFILIATED HOLDINGS LLC,
a Delaware limited liability company

By:____
Name:____
Title:____

In Presence of:

Witness

