

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, DC 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): November 9, 2018

INDUSTRIAL SERVICES OF AMERICA, INC.
(Exact name of registrant as specified in its Charter)

Florida
(State or other jurisdiction
of incorporation)

0-20979
(Commission
File Number)

59-0712746
(IRS Employer
Identification No.)

7100 Grade Lane, Louisville, Kentucky

40213

(Address of principal executive offices)

(Zip Code)

Company's telephone number, including area code: (502) 366-3452

Not applicable

(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))

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.

Bank of America Loan Agreement

On November 9, 2018 (the “**Closing Date**”), Industrial Services of America, Inc. (the “**Company**”) and certain of its wholly-owned subsidiaries (collectively, the “**Borrowers**”) entered into a Loan and Security Agreement with Bank of America, N.A. (“**BofA**” and the “**BofA Loan Agreement**”) that provides for (i) a revolving line of credit in the aggregate principal amount of \$10 million (subject to a borrowing base), which includes a \$1.0 million letter of credit subline (the “**Revolving Loan**”), and (ii) a term loan in the amount of \$2.5 million (the “**Term Loan**” and together with the Revolving Loan, the “**Loans**”).

The interest rate on the Revolving Loan is equal to LIBOR plus 2.25% to 2.75%. The interest rate on the Term Loan is equal to LIBOR plus 2.75% to 3.25%. During a continuance of an Event of Default (as defined in the BofA Loan Agreement), the interest rate will increase by 2.0%.

Proceeds from the BofA Loan Agreement will be used to satisfy the Company’s existing credit facility with Midcap Business Credit, LLC (“**MidCap**”). In addition, proceeds from the Revolving Loan may be used to pay fees and transaction expenses associated with the Loans, to pay the Borrowers’ obligations to BofA, and for other lawful corporate purposes of the Borrowers, including working capital.

The Revolving Loan is due and payable in full on the Commitment Termination Date (as defined below), and the Borrowers may prepay the Revolving Loan without premium or penalty. The Term Loan will be repaid by consecutive installments of \$89,286 on the first day of each quarter, commencing on January 1, 2019. On the Commitment Termination Date, all principal, interest, and other amounts with respect to the Term Loan will be due and payable in full.

The Company agreed to pay BofA certain fees in connection with the BofA Loan Agreement, including, without limitation: (i) unused credit line fees, due on the first day of each month and on the Commitment Termination Date, (ii) letter of credit facility fees, payable in monthly arrears on the first day of each month, (iii) a closing fee in the amount of \$50,000, due on the Closing Date, and (iv) an administrative fee of \$10,000 on the Closing Date and on each anniversary date thereof. In addition, the Company agreed to pay all reasonable fees, costs, and expenses, incurred by BofA in the enforcement of the BofA Loan Agreement and related documents during the continuance of an Event of Default and all legal, accounting, appraisal, consulting, and other fees incurred by BofA in connection with the Loans.

Borrowings under the BofA Loan Agreement are secured by all property of each Borrower. The Company’s obligations are also secured by mortgages upon real estate owned by certain wholly-owned subsidiaries of the Company.

On the Closing Date, BofA advanced the Borrowers \$4,108,924 under the Revolving Loan and \$2.5 million under the Term Loan.

The BofA Loan Agreement requires the Borrowers to comply with certain customary affirmative and negative covenants that, among other things, will restrict, subject to certain exceptions, the ability of the Borrowers to incur indebtedness, grant liens, make investments, engage in acquisitions, mergers or consolidations, and pay dividends and other restricted payments. The BofA Loan Agreement also requires that the Borrowers maintain a certain fixed charge coverage ratio, calculated as of the last day of each month for the trailing twelve month period then ended.

The BofA Loan Agreement contains customary Events of Default for facilities of a similar nature and size as the BofA Loan Agreement, including without limitation (i) the Borrowers' failure to pay its obligations under the BofA Loan Agreement, (ii) inaccuracy of representations and warranties, (iii) any Borrower's breach of a covenant, (iv) any breach or default of the Borrowers occurs under any hedging agreement or any other agreement to which it is a party, (v) the entry of any judgment against the Company or its subsidiaries which exceeds \$250,000, (vi) the occurrence of any uninsured loss, theft, damage or destruction to any of the collateral if the amount not covered by insurance exceeds \$250,000, or (vii) the occurrence of any event that would cause any material adverse change in the business or financial condition of the Borrowers. If an Event of Default occurs, BofA may declare all amounts due to BofA immediately due and payable, terminate or recondition any commitment to lend under the BofA Loan Agreement or adjust the borrowing base, require the Company to cash collateralize all of its obligations, and exercise any other remedy afforded under any agreement, law, at equity, or otherwise. In addition, if an Event of Default is triggered by any Borrower's bankruptcy and insolvency proceedings, all Borrowers' obligations to BofA will automatically become due and payable and all of the commitments under the BofA Loan Agreement will terminate.

The BofA Loan Agreement will terminate on the earlier of: (i) September 30, 2020, with an option to extend such date to September 30, 2023 upon certain conditions, (ii) the date on which the Borrowers terminate the Revolving Loan pursuant to the BofA Loan Agreement, or (iii) the date on which BofA terminates the Revolving Loan as a result of an Event of Default (the "**Commitment Termination Date**"). The Company has the right to terminate the BofA Loan Agreement at any time with 30 days prior written notice. Any notice of termination by the Borrowers will be irrevocable and the Borrowers will make full payment of all obligations on the Commitment Termination Date.

The foregoing description of the BofA Loan Agreement does not purport to be complete and is qualified in its entirety by reference to the BofA Loan Agreement, a copy of which is attached as Exhibits 10.1 to this Current Report on Form 8-K, and incorporated herein by reference.

Pledge Agreement; General Security Agreement; Guaranty Agreement; Mortgages

As security for the BofA Loan Agreement, (i) certain of the Company's wholly-owned subsidiaries granted BofA a first priority security interest in substantially all of their assets pursuant to a General Security Agreement, (ii) the Company pledged to BofA all of its equity interests pursuant to a Pledge Agreement, (iii) certain of the Company's subsidiaries guaranteed the Company's obligations under the BofA Loan Agreement pursuant to a Guaranty Agreement, and (iv) certain of the Company's wholly-owned subsidiaries granted BofA a lien on certain real estate property pursuant to certain Mortgages.

The foregoing descriptions of the Pledge Agreement, the General Security Agreement, the Guaranty Agreement, and the Mortgages do not purport to be complete and are qualified in their entirety by reference to the full text of the Pledge Agreement, the General Security Agreement, the Guaranty Agreement, and Mortgages, copies of which are filed as Exhibits 10.2, 10.3, 10.4, 10.5, and 10.6, respectively, to this Current Report on Form 8-K and are incorporated herein by reference.

ITEM 1.02 TERMINATION OF A MATERIAL DEFINITIVE AGREEMENT.

As of November 9, 2018, in connection with entry into the BofA Loan Agreement as described in Item 1.01 above, the Company repaid in full the remaining balance of the Company's revolving line of credit with MidCap. The Company paid to MidCap \$106,804 in interest penalties as a result of such termination. The material terms of the Loan and Security Agreement between the Company and Midcap dated as of February 29, 2016, subsequently amended, including the terms relating to the revolving line of credit, have been previously reported on Current Reports on Form 8-K filed with the Securities and Exchange Commission on March 2, 2016 and June 7, 2018, and the Annual Report on Form 10-K filed with the Securities and Exchange Commission on March 31, 2017.

The information set forth in Item 1.01 of this Current Report on Form 8-K is hereby incorporated by reference.

ITEM 2.02 RESULTS OF OPERATIONS AND FINANCIAL CONDITION.

On November 13, 2018, the Company issued a press release announcing its operating results for the quarter and nine months ended September 30, 2018. A copy of the press release is furnished as Exhibit 99.1 to this Current Report on Form 8-K.

Exhibit 99.1 shall not be deemed “filed” for purposes of Section 18 of the Securities Exchange Act of 1934, as amended, nor shall it be incorporated by reference into any registration statement filed under the Securities Act of 1933, as amended, unless specifically identified therein as being incorporated by reference therein.

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 of this Current Report on Form 8-K is hereby incorporated by reference.

ITEM 7.01 REGULATION FD DISCLOSURE.

On November 13, 2018, the Company issued a press release announcing the BofA Loan Agreement and the related transactions. A copy of the press release is furnished as Exhibit 99.1 to this Current Report on Form 8-K.

Exhibit 99.1 shall not be deemed “filed” for purposes of Section 18 of the Securities Exchange Act of 1934, as amended, nor shall it be incorporated by reference into any registration statement filed under the Securities Act of 1933, as amended, unless specifically identified therein as being incorporated by reference therein.

ITEM 9.01 FINANCIAL STATEMENTS AND EXHIBITS.

(d) Exhibits

Exhibit No.	Description
10.1	Loan and Security Agreement dated as of November 9, 2018 between the Company and certain of its wholly-owned subsidiaries and Bank of America, N.A.
10.2	General Security Agreement dated as of November 9, 2018 between certain of the Company’s wholly-owned subsidiaries and Bank of America, N.A.
10.3	Pledge Agreement dated as of November 9, 2018 made by the Company in favor of Bank of America, N.A.
10.4	Guaranty Agreement dated as of November 9, 2018 made by certain of the Company’s wholly-owned subsidiaries in favor of Bank of America, N.A.
10.5	Mortgage, Assignment of Leases and Rent, Security Agreement and Fixture Filing dated as of November 9, 2018 made by 7200 Grade Lane LLC in favor of Bank of America, N.A.
10.6	Mortgage, Assignment of Leases and Rent, Security Agreement and Fixture Filing dated as of November 9, 2018 made by 7124 Grade Lane LLC in favor of Bank of America, N.A.
99.1	Press Release dated November 13, 2018.

SIGNATURES

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

INDUSTRIAL SERVICES OF AMERICA, INC.

Date: November 13, 2018

By: /s/ Todd Phillips

Todd Phillips
President, Chief Executive Officer and
Chief Financial Officer

INDEX TO EXHIBITS

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99.1	Press Release dated November 13, 2018.

LOAN AND SECURITY AGREEMENT

Dated as of November 9, 2018

INDUSTRIAL SERVICES OF AMERICA, INC.,
7124 GRADE LANE LLC, and
7200 GRADE LANE LLC,
as Borrowers

and

BANK OF AMERICA, N.A.,
as Lender

TABLE OF CONTENTS

	<u>Page</u>
Section 1. DEFINITIONS; RULES OF CONSTRUCTION	1
1.1. Definitions	1
1.2. Accounting Terms	13
1.3. Uniform Commercial Code	14
Section 2. CREDIT FACILITIES	14
2.1. Revolver Commitment	14
2.2. Term Loan Commitment	14
2.3. Letter of Credit Facility	14
Section 3. INTEREST, FEES AND CHARGES	15
3.1. Interest	15
3.2. Fees	16
3.3. Computation of Interest, Fees, Yield Protection	16
3.4. Reimbursement Obligations	16
3.5. Illegality	17
3.6. Reserved	17
3.7. Increased Costs; Capital Adequacy	17
3.8. Maximum Interest	18
3.9. Interest Rate Not Ascertainable; LIBOR Replacement	18
Section 4. LOAN ADMINISTRATION	18
4.1. Manner of Borrowing and Funding Revolver Loans	18
4.2. Effect of Termination.	19
4.3. Borrower Agent.	19
4.4. One Obligation.	19
Section 5. PAYMENTS	20
5.1. General Payment Provisions	20
5.2. Repayment of Revolver Loans	20
5.3. Repayment of Term Loan	20
5.4. Payment of Other Obligations	20
5.5. Marshaling; Payments Set Aside	21
5.6. Application of Payments; Dominion Account	21
5.7. Account Stated	21
5.8. Nature and Extent of Each Borrowers' Liability	21
Section 6. CONDITIONS PRECEDENT	23
6.1. Conditions Precedent to Initial Loans	23
6.2. Conditions Precedent to All Credit Extensions	24

Section 7. COLLATERAL	24
7.1. Grant of Security Interest	25
7.2. Lien on Deposit Accounts; Cash Collateral	25
7.3. Real Estate Collateral	26
7.4. Other Collateral	26
7.5. Limitations	26
7.6. Further Assurances; Extent of Liens	26
7.7. Real Estate Collateral	26
Section 8. COLLATERAL ADMINISTRATION	26
8.1. Borrowing Base Reports	26
8.2. Accounts.	27
8.3. Inventory	27
8.4. Equipment	28
8.5. Deposit Accounts	28
8.6. General Provisions	28
8.7. Power of Attorney	29
Section 9. REPRESENTATIONS AND WARRANTIES	30
9.1. General Representations and Warranties	30
9.2. Complete Disclosure	33
Section 10. COVENANTS AND CONTINUING AGREEMENTS	33
10.1. Affirmative Covenants	33
10.2. Negative Covenants	36
10.3. Financial Covenants - Fixed Charge Coverage Ratio	39
10.4. Post Closing	39
Section 11. EVENTS OF DEFAULT; REMEDIES ON DEFAULT	39
11.1. Events of Default	39
11.2. Remedies upon Default	40
11.3. License	41
11.4. Setoff	41
11.5. Remedies Cumulative; No Waiver	41
Section 12. MISCELLANEOUS	42
12.1. Amendments and Waivers	42
12.2. Indemnity	42
12.3. Notices and Communications	42
12.4. Performance of Borrowers' Obligations	43
12.5. Credit Inquiries	43
12.6. Severability	43
12.7. Cumulative Effect; Conflict of Terms	43
12.8. Counterparts	43
12.9. Entire Agreement	44
12.10. No Control; No Fiduciary Responsibility	44
12.11. Waiver of Confidentiality	44
12.12. Governing Law	44
12.13. Consent to Forum	44
12.14. Waivers by Borrower	45
12.15. Patriot Act Notice	45
12.16. NO ORAL AGREEMENT	45

LIST OF SCHEDULES

Schedule 8.5	Deposit Accounts
Schedule 8.6.1	Business Locations
Schedule 9.1.4	Names and Capital Structure
Schedule 9.1.11	Patents, Trademarks, Copyrights and Licenses
Schedule 9.1.14	Environmental Matters
Schedule 9.1.15	Restrictive Agreements
Schedule 9.1.16	Litigation
Schedule 9.1.18	Pension Plans
Schedule 10.2.2	Existing Liens
Schedule 10.2.17	Existing Affiliate Transactions

LOAN AND SECURITY AGREEMENT

THIS **LOAN AND SECURITY AGREEMENT** (this "Agreement") is dated as of November 9, 2018, among **INDUSTRIAL SERVICES OF AMERICA, INC.**, a Florida corporation ("ISA"), **7124 GRADE LANE LLC**, a Kentucky limited liability company ("7124 Grade Lane"), and **7200 GRADE LANE LLC**, a Kentucky limited liability company ("7200 Grade Lane"; and together with ISA, and 7124 Grade Lane, each individually a "Borrower" and collectively, the "Borrowers") and **BANK OF AMERICA, N.A.**, a national banking association ("Lender").

RECITALS:

Borrowers have requested that Lender provide a credit facility to Borrowers to finance their business enterprises. Lender is willing to provide the credit facility on the terms and conditions set forth in this Agreement.

NOW, THEREFORE, for valuable consideration hereby acknowledged, the parties agree as follows:

SECTION 1. DEFINITIONS; RULES OF CONSTRUCTION

1.1. Definitions. In addition to terms defined elsewhere in this Agreement, the following terms have the meanings set forth below:

7021 Grade Lane: 7021 Grade Lane LLC, a Kentucky limited liability company.

7110 Grade Lane Real Property: that certain Real Estate located at 7110 Grade Lane, Louisville, KY 40213 owned by ISA Real Estate.

Account: as defined in the UCC, including all rights to payment for goods sold or leased, or for services rendered.

Account Debtor: a Person obligated under an Account, Chattel Paper or General Intangible.

Acquisition: a transaction or series of transactions resulting in (a) acquisition of a business, division or substantially all assets of a Person; (b) record or beneficial ownership of 50% or more of the Equity Interests of a Person; or (c) merger, consolidation or combination of a Borrower or Subsidiary with another Person.

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

Annualized Basis: with respect to the interest expense component of the Fixed Charges for any measurement period, the product of (i) the actual amount of interest expense made or paid in respect of such component during such period divided by the number of calendar days in such period times (ii) 365.

Anti-Terrorism Law: any law relating to terrorism or money laundering, including the Patriot Act.

Applicable Margin: the margin set forth below, as determined by the Average Daily Availability as of the most recently ended Fiscal Quarter:

Level	Average Daily Availability for most recently ended Fiscal Quarter	Applicable Margin for Revolver Loans	Applicable Margin for Term Loan
I	Greater than or equal to 66% of the Maximum Revolver Amount	2.25%	2.75%
II	Less than 66% but greater than 33% of the Maximum Revolver Amount	2.50%	3.00%
III	Less than or equal to 33% of the Maximum Revolver Amount	2.75%	3.25%

Until July 1, 2019, margins shall be determined as if Level II were applicable. Thereafter, the margins shall be subject to increase or decrease by Lender on the first day of each of the Borrower's Fiscal Quarters based upon the Average Daily Availability as of the most recently ended Fiscal Quarter. If Lender is unable to calculate the Average Daily Availability for the most recently ended Fiscal Quarter due to Borrower's failure to deliver any Borrowing Base Report when required hereunder, then, at the option of Lender, margins shall be determined as if Level III were applicable until the first day of the calendar month following receipt of such Borrowing Base Report.

Asset Disposition: a sale, lease, license, consignment, transfer or other disposition of Property (including Real Estate) of an Obligor, including any disposition in connection with a sale-leaseback transaction or synthetic lease.

Availability: the Borrowing Base minus Revolver Usage.

Average Daily Availability: shall mean, for any period of determination, the average daily Availability during such period of determination.

Bank Product: any of the following products, services or facilities extended to a Borrower or Affiliate of a Borrower by Lender or any of its Affiliates: (a) Cash Management Services; (b) products under Hedging Agreements; and (c) commercial credit card and merchant card services.

Bank Product Debt: Debt, obligations and other liabilities of Borrowers with respect to Bank Products.

Bank Product Reserve: the aggregate amount of reserves established by Lender from time to time in its discretion in respect of Bank Product Debt.

Base Rate: for any day, a per annum rate equal to the greater of (a) the Prime Rate for such day; (b) the Federal Funds Rate for such day, plus 0.50%; or (c) LIBOR for a 30 day interest period as determined on such day, plus 1.50%, without giving effect to any minimum floor rate specified in the definition of LIBOR. In no event shall the Base Rate be less than 0%.

Borrowed Money: with respect to an Obligor, without duplication, its (a) Debt that (i) arises from the lending of money by any Person to such Obligor; (ii) is evidenced by notes, drafts, bonds, debentures, credit documents or similar instruments; (iii) accrues interest or is a type upon which interest charges are customarily paid (excluding trade payables owing in the ordinary course of business); or (iv) was issued or assumed as full or partial payment for Property; (b) capital leases; (c) reimbursement obligations with respect to letters of credit; and (d) guaranties of any Debt of the foregoing types owing by another Person.

Borrower Agent: as defined in Section 4.3.

Borrowing Base: on any date of determination, an amount equal to the lesser of:

(a) the Maximum Revolver Amount; or

(b) the sum of:

(i) up to 85% of Borrowers' Eligible Accounts, plus

(ii) an amount equal to the lesser of:

(a) up to 65% of the Value of total Eligible Inventory; and

(b) up to 85% of the NOLV of Eligible Inventory.

provided, that, in no event shall the aggregate amount of Revolver Loans made in respect of Eligible Inventory exceed 60% of the Borrowing Base, minus,

(ii) Reserves.

Borrowing Base Report: a report of the Borrowing Base by Borrowers, in form and substance reasonably satisfactory to Lender.

Business Day: any day other than a Saturday, Sunday or other day on which commercial banks are authorized to close under the laws of, or are in fact closed in, New York, and if such day relates to LIBOR, any such day on which dealings in dollar deposits are conducted in the London interbank market.

Cash Collateral: cash, and any interest or other income earned thereon, that is delivered to Lender to Cash Collateralize any Obligations.

Cash Collateral Account: a demand deposit, money market or other account maintained with Lender and subject to Lender's Liens.

Cash Collateralize: the delivery of cash to Lender, as security for the payment of Obligations, in an amount equal to (a) with respect to LC Obligations, 103% of the aggregate LC Obligations, and (b) with respect to any other Obligations (including Obligations arising under Bank Products), Lender's good faith estimate of the amount due or to become due. "Cash Collateralization" has a correlative meaning.

Cash Management Services: services relating to operating, collections, payroll, trust, or other depository or disbursement accounts, including automated clearinghouse, e-payable, electronic funds transfer, wire transfer, controlled disbursement, overdraft, depository, information reporting, lockbox and stop payment services.

Change of Control: (a) any "person" or "group" (as such terms are used in Sections 13(d) and 14(d) of the Securities Exchange Act of 1934) becomes the "beneficial owner" (as defined in Rules 13d-3 and 13d-5 under the Securities Exchange Act of 1934), directly or indirectly, of 35% or more of the aggregate outstanding Equity Interests of ISA; (b) ISA ceases to own and Control, beneficially and of record, directly or indirectly, 100% of all Equity Interests in all other Borrowers; (c) a change in the majority of directors of any Borrower during any 24 month period, unless approved by the majority of directors serving at the beginning of such period; or (d) the sale or transfer of all or substantially all assets of any Borrower.

Claims: all claims, liabilities, obligations, losses, damages, penalties, judgments, proceedings, interest, costs and expenses of any kind (including remedial response costs, and reasonable attorneys' fees) at any time (including after payment in full of the Obligations or replacement of Lender) actually incurred by any Indemnitee or asserted against any Indemnitee by any Obligor or other Person, in any way relating to (a) any Loans, Letters of Credit, Loan Documents, or the use thereof or transactions relating thereto, (b) any action taken or omitted in connection with any Loan Documents, (c) the existence or perfection of any Liens, or realization upon any Collateral, (d) exercise of any rights or remedies under any Loan Documents or applicable law, or (e) failure by any Obligor to perform or observe any terms of any Loan Document, in each case including all reasonable costs and expenses relating to any investigation, litigation, arbitration or other proceeding (including an insolvency proceeding or appellate proceedings), whether or not the applicable Indemnitee is a party thereto.

Collateral: all Property described in **Section 7.1**, and all other Property that now or hereafter secures (or is intended to secure) any Obligations.

Commitment Termination Date: the earliest to occur of:

(a) September 30, 2020, *provided, that*, in the event that the holders (whether the existing holders or any subsequent holders) of the Scheduled Debt execute and deliver subordination agreements in favor of Lender, in form and substance satisfactory to Lender, acknowledging that the Scheduled Debt is Subordinated Debt, then Lender shall, in its discretion, consider extending such date to September 30, 2023, based on such conditions as Lender may determine at such time, including, without limitation, no Default or Event of Default existing at such time and no Material Adverse Effect having occurred since the Closing Date;

(b) the date on which Borrowers terminate the Revolver Commitment pursuant to **Section 2.1.3**; or

(c) the date on which the Revolver Commitment is terminated pursuant to **Section 11.2**.

Commitments: the Revolver Commitment and Term Loan Commitment.

Compliance Certificate: a certificate delivered by a knowledgeable officer of Borrowers certifying compliance with **Section 10.3**.

Contingent Obligation: any obligation of a Person arising from a guaranty, indemnity or other assurance of payment or performance of any Debt, lease, dividend or other obligation (“primary obligations”) of another obligor (“primary obligor”) in any manner, whether directly or indirectly, including any obligation of such Person under any (a) guaranty, endorsement, co-making or sale with recourse of an obligation of a primary obligor; (b) obligation to make take-or-pay or similar payments regardless of nonperformance by any other party to an agreement; and (c) arrangement (i) to purchase any primary obligation or security therefor, (ii) to supply funds for the purchase or payment of any primary obligation, (iii) to maintain or assure working capital, equity capital, net worth or solvency of the primary obligor, (iv) to purchase Property or services for the purpose of assuring the ability of the primary obligor to perform a primary obligation, or (v) otherwise to assure or hold harmless the holder of any primary obligation against loss in respect thereof. The amount of any Contingent Obligation shall be deemed to be the stated or determinable amount of the primary obligation (or, if less, the maximum amount for which such Person may be liable under the instrument evidencing the Contingent Obligation) or, if not stated or determinable, the maximum reasonably anticipated liability with respect thereto.

Control: the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through the ability to exercise voting power, by contract or otherwise. “Controlling” and “Controlled” have correlative meanings.

Debt: as applied to any Person, without duplication, (a) all items that would be included as liabilities on a balance sheet in accordance with GAAP, including Capital Leases, but excluding trade payables incurred and being paid in the ordinary course of business; (b) all Contingent Obligations; (c) all reimbursement obligations in connection with letters of credit issued for the account of such Person; and (d) in the case of a Borrower, the Obligations. The Debt of a Person shall include any recourse Debt of any partnership in which such Person is a general partner or joint venture.

Default: an event or condition that, with the lapse of time or giving of notice, would constitute an Event of Default.

Default Rate: for any Obligation (including, to the extent permitted by law, interest not paid when due), 2% plus the interest rate otherwise applicable thereto.

Deposit Account Control Agreement: a control agreement satisfactory to Lender executed by an institution maintaining a Deposit Account for an Obligor, to perfect Lender's Lien on such account.

Dilution Reserve: a reserve established from time to time by Lender, in its reasonable discretion, in an amount equal to the product of (a) the aggregate amount of Eligible Accounts multiplied by (b) the difference between (i) the actual amount of Borrowers' bad debt write-downs, discounts, returns, promotions, credits, credit memos and other cash reductions with respect to Accounts and (ii) 5%, only to the extent such amount exceeds 5% of the gross face amount of such Accounts, as determined from the most recent field examination conducted by Lender and calculated on a trailing twelve month basis.

Dominion Account: a special account established by Borrowers at Lender over which Lender has exclusive control for withdrawal purposes.

EBITDA: determined on a consolidated basis for Borrowers and its Subsidiaries, net income, calculated before interest expense, provision for income taxes, depreciation and amortization expense, non-cash stock-based compensation expenses, gains or losses arising from the sale of capital assets, gains arising from the write-up of assets, any extraordinary gains and extraordinary losses (in each case, to the extent included in determining net income).

Eligible Account: an Account owing to a Borrower that arises in the ordinary course of business from the sale of goods or rendition of services, and is deemed by Lender, in its Permitted Discretion, to be an Eligible Account. Without limiting the foregoing, no Account shall be an Eligible Account if (a) it is unpaid for more than 60 days after the original due date, or more than 90 days after the original invoice date; (b) 50% or more of the Accounts owing by the Account Debtor (or its Affiliates) are not Eligible Accounts under the foregoing clause; (c) when aggregated with other Accounts owing by the Account Debtor (or its Affiliates), it exceeds 10% (or in the case of (i) Waupaca Foundry and its Affiliates, such percentage shall be 30% and (ii) AK Steel, such percentage shall be 20%) of the aggregate Eligible Accounts (or such higher percentage as Lender may establish for the Account Debtor from time to time); (d) it does not conform with a covenant or representation herein; (e) it is owing by a creditor or supplier, or is otherwise subject to a potential offset, counterclaim, dispute, deduction, discount, recoupment, reserve, defense, chargeback, credit or allowance (but ineligibility shall be limited to the amount thereof); (f) an insolvency or bankruptcy proceeding has been commenced by or against the Account Debtor; or the Account Debtor has failed, has suspended or ceased doing business, is liquidating, dissolving or winding up its affairs, is not solvent, or is subject to any sanction or on any specially designated nationals list maintained by the Office of Foreign Assets Control of the U.S. Treasury Department ("OFAC"); or the Borrower is not able to bring suit or enforce remedies against the Account Debtor through judicial process; (g) the Account Debtor is organized or has its principal offices or assets outside the United States; (h) it is owing by a governmental authority, unless the Account Debtor is the United States or any department, agency or instrumentality thereof and the Account has been assigned to Lender in compliance with the federal Assignment of Claims Act; (i) it is not subject to a duly perfected, first priority Lien in favor of Lender, or is subject to any other Lien (other than Permitted Liens of the types described in **Section 10.2.2(c)**); (j) the goods giving rise to it have not been delivered to the Account Debtor, the services giving rise to it have not been accepted by the Account Debtor, or it otherwise does not represent a final sale; (k) it is evidenced by Chattel Paper or an Instrument of any kind, or has been reduced to judgment; (l) its payment has been extended or the Account Debtor has made a partial payment; (m) it arises from a sale to an Affiliate, from a sale on a cash-on-delivery, bill-and-hold, sale or return, sale on approval, consignment, or other repurchase or return basis, or from a sale for personal, family or household purposes; (n) it represents a progress billing or retainage, or relates to services for which a performance, surety or completion bond or similar assurance has been issued; or (o) it includes a billing for interest, fees or late charges, but ineligibility shall be limited to the extent thereof. In calculating delinquent portions of Accounts under clauses (a) and (b), credit balances more than 90 days old will be excluded.

Eligible Inventory: Inventory owned by a Borrower that Lender, in its Permitted Discretion, deems to be Eligible Inventory. Without limiting the foregoing, no Inventory shall be Eligible Inventory unless it (a) consists of scrap metal (including, without limitation, recycled metals and automobile parts) and does not consist of supplies, packaging, sample inventory or customer supplied parts or Inventory; (b) is not held on consignment, nor subject to any deposit or down payment; (c) is in saleable condition and is not damaged, defective, shopworn or otherwise unfit for sale; (d) is not slow-moving, perishable, obsolete or unmerchantable, and does not constitute returned or repossessed goods; (e) meets all standards imposed by any governmental authority in all material respects, has not been acquired from an entity subject to any sanction or on any specially designated nationals list maintained by OFAC, and does not constitute hazardous materials under any environmental law; (f) complies with the covenants and representations herein; (g) is subject to Lender's duly perfected, first priority Lien, and no other Lien (other than Permitted Liens of the types described in **Section 10.2.2(c)**) and **10.2.2(g)**); (h) is within the continental United States, is not in transit except between locations of a Borrower, and is not consigned to any Person; (i) is not subject to any warehouse receipt or negotiable Document; (j) is not subject to any License or other arrangement that restricts a Borrowers' or Lender's right to dispose of such Inventory, unless Lender has received an appropriate Lien Waiver; (k) is located (i) on a premises containing Eligible Inventory with an aggregate Value of at least \$50,000, (ii) if such Inventory is located on a leased premises or in the possession of a warehouseman, processor, repairman, mechanic, shipper, freight forwarder or other Person, such lessor or such other Person has delivered a Lien Waiver or an appropriate Reserve has been established, or (iii) if such Inventory is located on a premises owned by a Borrower and such premises is subject to a mortgage, the mortgagee of such premises has delivered a mortgagee waiver in form and substance satisfactory to Lender.

Enforcement Action: any action to enforce any Obligations or Loan Documents or to realize upon any Collateral.

Equity Interest: the interest of any (a) shareholder in a corporation; (b) partner in a partnership (whether general, limited, limited liability or joint venture); (c) member in a limited liability company; or (d) other Person having any other form of equity security or ownership interest.

Excluded Accounts: (i) that certain Deposit Account No. 4145419, in the name of ISA, held at Jackson County Bank, so long as not more than \$25,000 is deposited into such account at any time and (ii) Deposit Account No. 4145430, so long as not more than \$25,000 is deposited into such account at any time.

Federal Funds Rate: (a) the weighted average of interest rates on overnight federal funds transactions with members of the Federal Reserve System arranged by federal funds brokers on the applicable Business Day (or on the preceding Business Day, if the applicable day is not a Business Day), as published by the Federal Reserve Bank of New York on the next Business Day; or (b) if no such rate is published on the next Business Day, the average rate charged to Lender on the applicable day on such transactions, as determined by Lender in its discretion. In no event shall the Federal Funds Rate be less than 0%.

Fiscal Quarter: each period of three months, commencing on the first day of a Fiscal Year.

Fiscal Year: the fiscal year of Borrowers and their Subsidiaries for accounting and tax purposes, ending on December 31st of each year.

Fixed Charge Coverage Ratio: the ratio, determined for Borrowers and their Subsidiaries on a consolidated basis for the most recent 12 month period then ended, of (a) EBITDA minus (i) capital expenditures (except those financed with Borrowed Money other than Revolver Loans) and (ii) cash taxes paid, to (b) Fixed Charges.

Fixed Charges: for any period of determination for Borrowers and their Subsidiaries on a consolidated basis, the sum of (a) interest expense (other than payment-in-kind, amortization of financing fees, and other non-cash interest expense), plus (b) regularly scheduled principal payments on Borrowed Money, plus (c) Restricted Payments made in cash during such period. For purposes of this Agreement, for any measurement period ending before January 1, 2020, the interest components of the Fixed Charges shall be calculated on an Annualized Basis using the actual amount of interest paid during the period commencing on the Closing Date and ending on the last day of the applicable measurement period.

Flood Insurance Laws: all laws and regulations relating to policies and procedures that address requirements placed on federally regulated lenders under the National Flood Insurance Act of 1968, the Flood Disaster Protection Act of 1973, the National Flood Insurance Reform Act of 1994, the Flood Insurance Reform Act of 2004, and all other related laws and regulations.

Full Payment: with respect to any Obligations, (a) the full and indefeasible cash payment thereof, including any interest, fees and other charges accruing during an Insolvency Proceeding (whether or not allowed in the proceeding); and (b) if such Obligations are LC Obligations or inchoate or contingent in nature, Cash Collateralization thereof (or delivery of a standby letter of credit acceptable to Lender in its discretion, in the amount of required Cash Collateral). No Loans shall be deemed to have been paid in full unless all Commitments related to such Loans are terminated.

Guarantor: ISA IN Real Estate, ISA Indiana, ISA Logistics, ISA Real Estate, 7021 Grade Lane, and each Person that guarantees payment or performance of Obligations.

Hedging Agreement: a “swap agreement” as defined in U. S. Bankruptcy Code Section 101(53B)(A).

Increased Appraisal Trigger Period: the period (a) commencing on the day that (i) an Event of Default occurs and remains outstanding, or (ii) the sum of Availability, minus the aggregate amount of Borrowers’ accounts payables stretched beyond their customary payment practices is less than \$1,000,000 at any time; and (b) continuing until, during each of the preceding sixty (60) consecutive days, (i) no Event of Default has existed and (ii) the sum of Availability, minus the aggregate amount of Borrowers’ accounts payables stretched beyond their customary payment practices, has been more than \$1,000,000.

Inventory: as defined in the UCC, including all goods intended for sale, lease, display or demonstration; all work in process; and all raw materials, and other materials and supplies of any kind that are or could be used in connection with the manufacture, printing, packing, shipping, advertising, sale, lease or furnishing of such goods, or otherwise used or consumed in any Borrowers’ business (but excluding Equipment).

Investment: an Acquisition, an acquisition of record or beneficial ownership of any Equity Interests of a Person, or an advance or capital contribution to or other investment in a Person.

ISA IN Real Estate: ISA Indiana Real Estate, LLC, a Kentucky limited liability company

ISA Indiana: ISA Indiana, Inc., an Indiana corporation,

ISA Logistics: ISA Logistics LLC, a Kentucky limited liability company

ISA Real Estate: ISA Real Estate, LLC, a Kentucky limited liability company

K&R: K&R, LLC, a Kentucky limited liability company.

K&R Note: That certain Term Note, dated February 29, 2016, in the original principal amount of \$620,328, made by ISA in favor of K&R.

LC Application: an application by Borrower to Lender for issuance of a Letter of Credit, in form and substance satisfactory to Lender.

LC Conditions: upon issuance of the Letter of Credit: (a) each condition in **Section 6** is satisfied; (b) after giving effect to any requested Letter of Credit, (i) total LC Obligations do not exceed the Letter of Credit Subline and (ii) Revolver Usage does not exceed the Borrowing Base; and (c) the purpose and form of the Letter of Credit are satisfactory to Lender in its reasonable discretion.

LC Documents: all documents, instruments and agreements (including LC Requests and LC Applications) delivered by Borrower or any other Person to Lender in connection with any Letter of Credit.

LC Obligations: the sum of (a) all amounts owing by Borrower for drawings under Letters of Credit; and (b) the Stated Amount of all outstanding Letters of Credit.

LC Request: a request for issuance of a Letter of Credit, to be provided by Borrower in form satisfactory to Lender.

Letter of Credit: any standby or documentary letter of credit, foreign guaranty, documentary bankers acceptance or similar instrument issued by Lender for the account or benefit of Borrower.

Letter of Credit Subline: \$1,000,000.

LIBOR: for each month, the per annum rate of interest (rounded up to the nearest 1/8th of 1% and in no event less than zero) determined by Lender at or about 11:00 a.m. (London time) as of the first day of such month for a one-month term, equal to the London Interbank Offered Rate for a 30-day interest period, or comparable or successor rate approved by Lender in accordance with the terms of this Agreement. If at any time LIBOR is less than zero, such rate shall be deemed to be zero.

LIBOR Screen Rate: the LIBOR quote on the applicable screen page Lender designates to determine LIBOR (or such other commercially available source providing such quotations as may be designated by Lender from time to time).

LIBOR Successor Rate: as defined in **Section 3.9**.

LIBOR Successor Rate Conforming Changes: with respect to any proposed LIBOR Successor Rate, any conforming changes to the definition of Base Rate, timing and frequency of determining rates and making payments of interest and other administrative matters as may be appropriate, in the discretion of Lender, to reflect the adoption of such LIBOR Successor Rate and to permit the administration thereof by Lender in a manner substantially consistent with market practice (or, if Lender determines that adoption of any portion of such market practice is not administratively feasible or that no market practice for the administration of such LIBOR Successor Rate exists, in such other manner of administration as Lender determines in consultation with the Borrowers).

License: any license or agreement under which an Obligor is authorized to use intellectual property in connection with any manufacture, marketing, distribution or disposition of Collateral, any use of Property or any other conduct of its business.

Lien: a Person's interest in Property securing an obligation owed to, or a claim by, such Person, including any lien, security interest, pledge, hypothecation, assignment, trust, reservation, encroachment, easement, right-of-way, covenant, condition, restriction, lease, or other title exception or encumbrance.

Lien Waiver: an agreement, in form and substance reasonably satisfactory to Lender, by which (a) a lessor waives or subordinates any Lien it may have on the Collateral, and agrees to permit Lender to enter upon the premises and remove the Collateral or to use the premises to store or dispose of the Collateral; (b) for any Collateral held by a warehouseman, processor, shipper, customs broker or freight forwarder, such Person waives or subordinates any Lien it may have on the Collateral, agrees to hold any Documents in its possession relating to the Collateral as agent for Lender, and agrees to deliver the Collateral to Lender upon request; (c) for any Collateral held by a repairman, mechanic or bailee, such Person acknowledges Lender's Lien, waives or subordinates any Lien it may have on the Collateral, and agrees to deliver the Collateral to Lender upon request; and (d) for any Collateral subject to a licensor's intellectual property rights, the licensor grants to Lender the right, vis-à-vis such licensor, to enforce Lender's Liens with respect to the Collateral, including the right to dispose of it with the benefit of the intellectual property, whether or not a default exists under any applicable license.

Loan: a Revolver Loan or Term Loan.

Loan Documents: this Agreement, Other Agreements and Security Documents.

Loan Year: each 12 month period commencing on the Closing Date (as defined in **Section 6.1**) and on each anniversary of the Closing Date.

Material Adverse Effect: the effect of any event or circumstance that, taken alone or in conjunction with other events or circumstances, (a) has or could be reasonably expected to have a material adverse effect on the business, operations, Properties, or condition (financial or otherwise) of any Borrower, on the value of any material Collateral, on the enforceability of any Loan Documents, or on the validity or priority of Lender's Liens on any material Collateral; (b) impairs the ability of any Borrower to perform any material obligations under the Loan Documents, including repayment of any Obligations; or (c) otherwise impairs the ability of Lender to enforce or collect any Obligations or to realize upon any material Collateral.

Maximum Revolver Amount: means \$10,000,000.

Mortgage: a mortgage or deed of trust in which Borrower grants a Lien on certain of its Real Estate located at 7200 Grade Lane, 7124 Grade Lane and 7210 Grade Lane, Louisville, Kentucky to Lender, as security for its Obligations.

NFLV: the cash proceeds of machinery and Equipment which could be obtained in a forced liquidation (net of all liquidation expenses, costs of sale, operating expenses and retrieval and related costs), as determined from the most recent appraisal of such machinery and Equipment performed by an appraiser and on terms reasonably satisfactory to Lender.

NOLV: the net orderly liquidation value of Inventory, expressed as a percentage, expected to be realized at an orderly, negotiated sale held within a reasonable period of time, net of all reasonable liquidation and/or foreclosure expenses, as determined from the most recent appraisal of any Borrower's Inventory, performed by an appraiser and on terms reasonably satisfactory to Lender.

Notice of Borrowing: a request by Borrower Agent for a Borrowing of Revolver Loans, in form reasonably satisfactory to Lender.

Obligations: all (a) principal of and premium, if any, on the Loans, (b) LC Obligations and other obligations of Borrower with respect to Letters of Credit, (c) interest, expenses, fees, costs, indemnification obligations and other amounts payable by Borrower under the Loan Documents, (d) Bank Product Debt, and (e) other debts, obligations and liabilities of any kind owing by Borrower to Lender, whether now existing or hereafter arising, whether evidenced by a note or other writing, whether allowed in any insolvency or bankruptcy proceeding, whether arising from an extension of credit, issuance of a letter of credit, acceptance, loan, guaranty, indemnification or otherwise, and whether direct or indirect, absolute or contingent, due or to become due, primary or secondary, or joint or several.

Obligor: Borrowers, Guarantors, or any other Person that is liable for payment of any Obligations or that has granted a Lien in favor of Lender on its assets to secure any Obligations.

Other Agreement: each LC Document, Lien Waiver, Real Estate Related Document, Borrowing Base Report, Compliance Certificate, financial statement or report delivered hereunder; or other document, instrument or agreement (other than this Agreement or a Security Document) now or hereafter delivered by an Obligor or other Person to Lender in connection with any transactions relating hereto.

Patriot Act: the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, Pub. L. No. 107-56, 115 Stat. 272 (2001).

Payment Item: each check, draft or other item of payment payable to Borrowers, including those constituting proceeds of any Collateral.

Permitted Acquisition: any Acquisition as long as (a) no Default or Event of Default exists or is caused thereby; (b) the Acquisition is consensual; (c) no Debt or Liens are assumed or incurred other than Permitted Liens and Permitted Debt; (d) upon giving pro forma effect thereto, both (x) Average Daily Availability for the 60 day period immediately preceding such Acquisition and (y) Availability immediately after giving effect to such Acquisition, is not less than 25% of the Maximum Revolver Amount; (e) the Fixed Charge Coverage Ratio, determined on a pro forma basis giving effect to the Acquisition, is not less than 1.0 to 1.0; and (f) Borrowers deliver to Lender, at least 10 Business Days prior to the Acquisition, copies of all material agreements relating thereto and a certificate, in form and substance reasonably satisfactory to Lender, stating that the Acquisition is a "Permitted Acquisition" and demonstrating compliance with the foregoing requirements.

Permitted Asset Disposition: as long as no Default or Event of Default exists and all net proceeds are remitted to Lender, an Asset Disposition that is:

(a) a sale of Inventory in the ordinary course of business for fair market value;

(b) a sale or disposition of the 7110 Grade Lane Real Property, *provided, that*, (i) in no event shall such sale or disposition of the 7110 Grade Lane Real Property be permitted if any shredding Equipment of any Obligor is located on such Real Property, and (ii) the net cash proceeds of such sale or disposition shall be used *first*, to make a principal payment to K&R in the amount of \$500,000 in accordance with the K&R Note, and *second*, to prepay the Revolver Loans in accordance with **Section 5.2**, or

(c) approved in writing by Lender.

Permitted Contingent Obligations: Contingent Obligations (a) arising from endorsements of Payment Items for collection or deposit in the ordinary course of business; (b) arising from Hedging Agreements permitted hereunder; (c) existing on the Closing Date, and any extension or renewal thereof that does not increase the amount of such Contingent Obligation when extended or renewed; (d) incurred in the ordinary course of business with respect to surety, appeal or performance bonds, or other similar obligations; (e) arising from customary indemnification obligations in favor of purchasers in connection with dispositions of Equipment permitted hereunder; (f) arising under the Loan Documents; or (g) in an aggregate amount of \$100,000 or less at any time.

Permitted Debt: as defined in **Section 10.2.1**.

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

Permitted Lien: as defined in **Section 10.2.2**.

Permitted Purchase Money Debt: Purchase Money Debt of Borrowers and Subsidiaries that is unsecured or secured only by a Purchase Money Lien, as long as the aggregate amount of Debt secured by such Purchase Money Liens does not exceed \$1,750,000 at any time.

Person: any individual, corporation, limited liability company, partnership, joint venture, association, trust, unincorporated organization, governmental authority or other entity.

Properly Contested: with respect to any obligation of an Obligor, (a) the obligation is subject to a bona fide dispute regarding amount or the Obligor's liability to pay; (b) the obligation is being properly contested in good faith by appropriate proceedings promptly instituted and diligently pursued; (c) appropriate reserves have been established in accordance with GAAP; (d) non-payment could not have a Material Adverse Effect, nor result in forfeiture or sale of any assets of the Obligor; (e) no Lien is imposed on assets of the Obligor, unless bonded and stayed to the reasonable satisfaction of Lender; and (f) if the obligation results from entry of a judgment or other order, such judgment or order is stayed pending appeal or other judicial review.

Property: any interest in any kind of property or asset, whether real, personal or mixed, or tangible or intangible.

Purchase Money Debt: (a) Debt (other than the Obligations) for payment of any of the purchase price of fixed assets; (b) Debt (other than the Obligations) incurred within 10 days before or after acquisition of any fixed assets, for the purpose of financing any of the purchase price thereof; and (c) any renewals, extensions or refinancings (but not increases) thereof.

Purchase Money Lien: a Lien that secures Purchase Money Debt, encumbering only the fixed assets acquired with such Debt and constituting a Capital Lease or a purchase money security interest under the UCC.

Real Estate: all right, title and interest (whether as owner, lessor or lessee) in any real Property or any buildings, structures, parking areas or other improvements thereon.

Related Real Estate Documents: with respect to any Real Estate (i) subject to a Mortgage, the following, in form and substance reasonably satisfactory to Lender: (a) a mortgagee title policy (or binder therefor) covering Lender's interest under the Mortgage, by an insurer acceptable to Lender, which must be fully paid on such effective date; (b) such assignments of leases, estoppel letters, attornment agreements, consents, waivers and releases as Lender may require with respect to other Persons having an interest in the Real Estate; (c) a boundary or as-built survey of the Real Estate, containing a metes-and-bounds property description if required by Lender; (d) a life-of-loan flood hazard determination and, if the Real Estate is located in a special flood hazard area, an acknowledged notice to borrower and flood insurance by an insurer acceptable to Lender; (e) a current appraisal of the Real Estate, prepared by an appraiser, and in form and substance satisfactory to Lender; (f) an environmental assessment, prepared by environmental engineers acceptable to Lender, and such other reports, certificates, studies or data as Lender may reasonably require; and (g) such other documents, instruments or agreements as Lender may reasonably require with respect to any environmental risks regarding the Real Estate and (ii) subject to a negative pledge in favor of Lender, (a) a negative pledge agreement, in form and substance reasonably satisfactory to Lender and (b) mortgage and title searches of each such parcel of Real Estate, in form and substance reasonably satisfactory to Lender.

Rent and Charges Reserve: the aggregate of (a) all past due rent and other amounts owing by an Obligor to any landlord, warehouseman, processor, repairman, mechanic, shipper, freight forwarder, broker or other Person who possesses any Collateral or could assert a Lien on any Collateral; (b) a reserve at least equal to three months rent and other charges that could be payable to any such Person, unless it has executed a Lien Waiver; and (c) such other reserves with respect to rent and other amounts or the Borrowing Base as Lender may establish in its discretion owing by an Obligor to any landlord, warehouseman, processor, repairman, mechanic, shipper, freight forwarder, broker or other Person who possesses any Collateral or could assert a Lien on any Collateral.

Reserves: collectively, (a) the Bank Product Reserve and (b) the Dilution Reserve, (c) Rent and Charges Reserve; (d) the Scheduled Debt Reserve, and (e) such other reserves against the Collateral or the Borrowing Base as Lender may establish in its reasonable discretion.

Restricted Payments: means payments on account of distributions, dividends, or stock repurchases made in respect of the Equity Interest or other ownership interests of a Borrower permitted under **Section 10.2.4** and (b) Acquisitions and Investments permitted under **Section 10.2.5(d)**.

Restrictive Agreement: an agreement (other than a Loan Document) that conditions or restricts the right of any Borrower, any Subsidiary or other Obligor to incur or repay Borrowed Money, to grant Liens on any assets, to declare or make distributions, to modify, extend or renew any agreement evidencing Borrowed Money, or to repay any intercompany Debt.

Revolver Commitment: Lender's obligation to make Revolver Loans and to issue Letters of Credit in an aggregate amount up to the Maximum Revolver Amount.

Revolver Loan: a loan made pursuant to **Section 2.1**.

Revolver Usage: the aggregate amount of outstanding Revolver Loans, plus the aggregate Stated Amount of outstanding Letters of Credit and other LC Obligations.

Royalties: all royalties, fees, expense reimbursement and other amounts payable by any Borrower under a License.

Scheduled Debt: the Debt set forth on Schedule D-1.

Scheduled Debt Reserve: collectively, (i) as of the Closing Date, an amount equal to the aggregate amount of interest payable in respect of the Scheduled Debt, which amount on the Closing Date equals \$150,000, *provided, that*, upon Borrower's request from time to time, such amount may be reduced by Lender in its discretion to reflect the amount of interest actually owed for the remaining term of the Scheduled Debt, and (ii) beginning on May 1, 2020, an amount equal to the aggregate amount of principal payable in respect of the Scheduled Debt, which amount on the Closing Date equals \$ \$1,504,128, it being acknowledged and agreed that such reserve for principal shall be instituted by Lender in five equal installments of \$300,826 on the first business day of each of the months of May 2020, June 2020, July 2020, August 2020, and September 2020; *provided, that*, if a Default or Event of Default exists, Lender, may, in its discretion, to institute a reserve for the full amount of principal and interest owing on the Scheduled Debt.

Secured Party or Secured Parties: Lender and providers of Bank Products.

Security Documents: the Guaranties, Mortgages, security agreements, Deposit Account Control Agreements, and all other documents, instruments and agreements now or hereafter securing (or given with the intent to secure) any Obligations.

Stated Amount: the outstanding amount of a Letter of Credit, including any automatic increase or tolerance (whether or not then in effect) provided by the Letter of Credit or related LC Documents.

Subordinated Debt: Debt incurred by any Borrower that is expressly subordinate and junior in right of payment to the Full Payment of all Obligations, and is on terms (including maturity, interest, fees, repayment, covenants and subordination) reasonably satisfactory to Lender.

Subsidiary or Subsidiaries: any entity at least 50% of whose voting securities or Equity Interests is owned by a Borrower (including indirect ownership through other entities in which such Borrower directly or indirectly owns 50% of the voting securities or Equity Interests).

Tax Distributions: a distribution by any Borrower to the holders of the Equity Interests of such Borrower solely to the extent necessary to permit such holders to discharge their respective federal, state and local tax liabilities arising directly as holders of the Equity Interests of such Borrower, determined based on the assumption that all such holders are subject to the highest marginal tax rate in effect at the time of such distribution and subject to the maximum limitation on the utilization of deductions, losses, allowances and credits.

Term Loan: a loan made pursuant to **Section 2.2**.

Term Loan Commitment: Lender's obligation to make a Term Loan in an amount up to the lesser of (a) \$2,500,000 and (b) the sum of (i) 70% of the NFLV of eligible machinery and Equipment of the Borrower as determined by an appraisal satisfactory to Lender, *plus* (ii) the lesser of \$600,000 and (y) 50% of the fair market value of Borrowers' Real Estate, as determined by an appraisal reasonable satisfactory to Lender.

Term Loan Maturity Date: means the Commitment Termination Date.

UCC: the Uniform Commercial Code as in effect in the State of New York or, when the laws of any other jurisdiction govern the perfection or enforcement of any Lien, the Uniform Commercial Code of such jurisdiction.

Unused Line Fee Rate: a per annum rate equal to 0.375%.

Value: with respect to Inventory, its value determined on the basis of the lower of cost or market, and excluding any portion of cost attributable to intercompany profit among Borrowers and their Affiliates.

1.2. Accounting Terms. Under the Loan Documents (except as otherwise specified therein), all accounting terms shall be interpreted, all accounting determinations shall be made, and all financial statements shall be prepared, in accordance with generally accepted accounting principles in the U.S. ("GAAP") applied on a basis consistent with the most recent audited financial statements of Borrowers delivered to Lender before the Closing Date and using the same inventory valuation method as used in such financial statements, except for any change required or permitted by GAAP if Borrowers' certified public accountants concur in such change, the change is disclosed to Lender, and **Section 10.3** is amended in a manner reasonably satisfactory to Lender to take into account the effects of the change.

1.3. Uniform Commercial Code. As used herein, the following terms are defined in accordance with the UCC in effect in the State of New York from time to time: “Chattel Paper,” “Commercial Tort Claim,” “Deposit Account,” “Document,” “Equipment,” “General Intangibles,” “Goods,” “Instrument,” “Investment Property,” “Letter-of-Credit Right” and “Supporting Obligation.”

SECTION 2. CREDIT FACILITIES

2.1. Revolver Commitment.

2.1.1. Revolver Loans. Lender agrees, on the terms set forth herein, to make Revolver Loans to Borrowers in an aggregate amount up to the Maximum Revolver Amount, from time to time through the Commitment Termination Date. Revolver Loans may be repaid and reborrowed as provided herein. In no event shall Lender have any obligation to honor a request for a Revolver Loan if Revolver Usage at such time plus the requested Loan would exceed the Borrowing Base.

2.1.2. Use of Proceeds. The proceeds of Revolver Loans shall be used by Borrowers solely (a) to satisfy existing Debt or credit facilities; (b) to pay fees and transaction expenses associated with the closing of this credit facility; (c) to pay Obligations in accordance with this Agreement; and (d) for other lawful corporate purposes of Borrowers, including working capital.

2.1.3. Voluntary Reduction or Termination of Revolver Commitment. The Revolver Commitment shall terminate on the Commitment Termination Date, unless sooner terminated in accordance with this Agreement. Upon at least 30 days prior written notice to Lender at any time, Borrowers may terminate the Revolver Commitment and this credit facility. Any notice of termination given by Borrowers shall be irrevocable. On the Commitment Termination Date, Borrowers shall make Full Payment of all Obligations.

2.1.4. Overadvances. If Revolver Usage exceeds the Borrowing Base (“Overadvance”) at any time, such excess shall be payable by Borrowers **on demand** by Lender, but all Revolver Usage (including the excess amount) shall nevertheless constitute Obligations secured by the Collateral and entitled to all benefits of the Loan Documents. No funding or sufferance of an Overadvance by Lender shall constitute a waiver of the Event of Default (as defined in **Section 11**) caused thereby.

2.2. Term Loan Commitment. Lender agrees, on the terms set forth herein, to make a Term Loan to Borrowers in an amount up to the Term Loan Commitment. The Term Loan shall be funded by Lender on the Closing Date.

2.3. Letter of Credit Facility.

2.3.1. Issuance of Letters of Credit. Lender agrees to issue Letters of Credit from time to time until 30 days prior to the Commitment Termination Date (or until the Commitment Termination Date, if earlier), on the terms set forth herein, including the following:

(a) Each Borrower acknowledges that Lender’s willingness to issue any Letter of Credit is conditioned upon its receipt of a LC Application with respect to the requested Letter of Credit, as well as such other instruments and agreements as Lender may customarily and reasonably require for issuance of a letter of credit of similar type and amount. Lender shall have no obligation to issue any Letter of Credit unless (i) it receives a LC Request and LC Application at least three Business Days prior to the requested date of issuance; and (ii) each LC Condition is satisfied.

(b) Letters of Credit may be requested by a Borrower to support obligations incurred in the ordinary course of business, or as otherwise approved by Lender. Increase, renewal or extension of a Letter of Credit shall be treated as issuance of a new Letter of Credit, except that Lender may require a new LC Application in its discretion.

(c) Each Borrower assumes all risks of the acts, omissions or misuses of any Letter of Credit by the beneficiary. In connection with issuance of any Letter of Credit, Lender shall not be responsible for the existence, character, quality, quantity, condition, packing, value or delivery of any goods purported to be represented by any Documents; any differences or variation in the character, quality, quantity, condition, packing, value or delivery of any goods from that expressed in any documents; the form, validity, sufficiency, accuracy, genuineness or legal effect of any documents or of any endorsements thereon; the time, place, manner or order in which shipment of goods is made; partial or incomplete shipment of, or failure to ship, any goods referred to in a Letter of Credit or documents; any deviation from instructions, delay, default or fraud by any shipper or other Person in connection with any goods, shipment or delivery; any breach of contract between a shipper or vendor and such Borrower; errors, omissions, interruptions or delays in transmission or delivery of any messages, by mail, cable, telegraph, telex, telecopy, e-mail, telephone or otherwise; errors in interpretation of technical terms; the misapplication by a beneficiary of any Letter of Credit or the proceeds thereof; or any consequences arising from causes beyond the control of Lender. Lender shall not be liable to any Borrower or other Person for any action taken or omitted to be taken in connection with any Letter of Credit or LC Documents except as a result of its gross negligence or willful misconduct. Lender shall be fully subrogated to the rights and remedies of each beneficiary whose claims against each Borrower are discharged with proceeds of any Letter of Credit.

(d) In connection with its administration of and enforcement of rights or remedies under any Letters of Credit or LC Documents, Lender shall be entitled to act, and shall be fully protected in acting, upon any certification, documentation or communication in whatever form believed by Lender, in good faith, to be genuine and correct and to have been signed, sent or made by a proper Person.

2.3.2. Reimbursement. If Lender honors any request for payment under a Letter of Credit, Borrowers shall pay to Lender, on the same day ("Reimbursement Date"), the amount paid under such Letter of Credit, together with interest at the interest rate for Revolver Loans from the Reimbursement Date until payment by Borrowers. The obligation of Borrowers to reimburse Lender for any payment made under a Letter of Credit shall be absolute, unconditional, irrevocable, and shall be paid without regard to any lack of validity or enforceability of any Letter of Credit or the existence of any claim, setoff, defense or other right that Borrowers may have at any time against the beneficiary. Whether or not Borrower submits a Notice of Borrowing, Borrower shall be deemed to have requested a Borrowing of Revolver Loans in an amount necessary to pay all amounts due on any Reimbursement Date.

2.3.3. Cash Collateral. If at any time (a) an Event of Default exists or (b) the Commitment Termination Date has occurred or is scheduled to occur within 20 Business Days, then Borrowers shall, at Lender's request, Cash Collateralize all outstanding Letters of Credit. If Borrowers fail to provide any Cash Collateral as required hereunder, Lender may advance, as Revolver Loans, the amount of Cash Collateral required.

SECTION 3. INTEREST, FEES AND CHARGES

3.1. Interest

3.1.1. Rates and Payment of Interest

(a) The Term Loan shall bear interest at LIBOR in effect from time to time, plus the Applicable Margin for the Term Loan. The Revolver Loan and all other Obligations shall bear interest at LIBOR in effect from time to time, plus the Applicable Margin for the Revolver Loans.

(b) During the continuance of any Event of Default, Obligations shall bear interest at the Default Rate (whether before or after any judgment). Borrowers acknowledge that the cost and expense to Lender due to an Event of Default are difficult to ascertain and that the Default Rate is fair and reasonable compensation for this.

(c) Interest shall accrue from the date a Loan is advanced or Obligation is incurred or payable, until paid in full. Interest accrued on the Loans shall be due and payable in arrears, (i) on the first day of each month; (ii) on any date of prepayment, with respect to the principal amount of Loans being prepaid; and (iii) on the Commitment Termination Date. Interest accrued on any other Obligations shall be due and payable as provided in the Loan Documents and, if no payment date is specified, shall be due and payable **on demand**. Notwithstanding the foregoing, interest accrued at the Default Rate shall be due and payable **on demand**.

3.1.2. Reserved

3.2. Fees.

3.2.1. Unused Line Fee. Borrowers shall pay to Lender a fee equal to the Unused Line Fee Rate times the amount by which the Maximum Revolver Amount exceeds the average daily Revolver Usage during any month. Such fee shall be payable in arrears, on the first day of each month and on the Commitment Termination Date.

3.2.2. LC Facility Fees. Borrower shall pay to Lender (a) a fee equal to the Applicable Margin in effect for Revolver Loans times the average daily Stated Amount of Letters of Credit, which fee shall be payable monthly in arrears, on the first day of each month; (b) a fronting fee equal to 0.125% per annum on the Stated Amount of each Letter of Credit, which fee shall be payable monthly in arrears, on the first day of each month; and (c) all customary and reasonable charges associated with the issuance, amending, negotiating, payment, processing, transfer and administration of Letters of Credit, which charges shall be paid as and when incurred. During the continuance of an Event of Default, the fee payable under clause (a) shall be increased by 2% per annum.

3.2.3. Closing Fee. On the Closing Date, Borrowers shall pay to Lender a closing fee of \$50,000.

3.2.4. Administrative Fee. On the Closing Date and on each anniversary thereof, Borrowers shall pay to Lender an administrative fee of \$10,000.

3.3. Computation of Interest, Fees, Yield Protection. All interest, as well as fees and other charges calculated on a per annum basis, shall be computed for the actual days elapsed, based on a year of 360 days. All fees payable under **Section 3.2** are compensation for services and are not, and shall not be deemed to be, interest or any other charge for the use, forbearance or detention of money. A certificate as to amounts payable by Borrowers under **Section 3.4**, or **3.7** submitted to Borrower Agent shall be final, conclusive and binding for all purposes, absent manifest error, and Borrowers shall pay such amounts to Lender within 10 days following receipt of the certificate.

3.4. Reimbursement Obligations. Borrowers shall pay all reasonable fees, costs, expenses or advances Lender may actually incur in the enforcement of the Loan Documents during the continuance of an Event of Default promptly upon request. Borrowers shall also reimburse Lender for all legal, accounting, appraisal, consulting, and other fees and expenses actually incurred by it in connection with (a) negotiation and preparation of any Loan Documents, and any modification to the Loan Documents; (b) administration of and actions relating to any Collateral, Loan Documents and transactions contemplated thereby, including any actions taken to perfect or maintain priority of Lender's Liens on any Collateral, to maintain any insurance required hereunder or to verify Collateral; and (c) subject to **Section 10.1.1(b)**, each examination or appraisal with respect to Borrowers or any Collateral, whether by Lender's personnel or a third party. All amounts payable by Borrowers under this Section shall be due **on demand**.

3.5. Illegality. If Lender determines that any applicable law has made it unlawful, or that any governmental authority has asserted that it is unlawful, for Lender to make, maintain or fund Loans, or to determine or charge interest rates based upon LIBOR, or any governmental authority has imposed material restrictions on the authority of Lender to purchase or sell, or to take deposits of, dollars in the London interbank market, then, on notice thereof by Lender to Borrowers, any obligation of Lender to make or continue Loans based upon LIBOR shall be suspended until Lender notifies Borrowers that the circumstances giving rise to such determination no longer exist, and all outstanding Loans and any Loans thereafter made by Lender shall bear interest at the Base Rate *plus* the Applicable Margin *less* 1.00%.

3.6. Reserved.

3.7. Increased Costs; Capital Adequacy.

3.7.1. Increased Costs Generally. If any Change in Law shall:

(a) impose modify or deem applicable any reserve, liquidity, 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 (except any reserve requirement reflected in calculating LIBOR);

(b) subject Lender to any taxes with respect to any Loan, Letter of Credit, Commitment or other obligations, or its deposits, reserves, other liabilities or capital attributable thereto; but excluding (i) franchise taxes and (ii) any taxes imposed on or measured by Lender's assets, net income, receipts or branch profits; or

(c) impose on Lender or any interbank market any other condition, cost or expense affecting any Loan, Letter of Credit, Commitment or Loan Document; and the result thereof shall be to increase the cost to Lender of making or maintaining any Loan or Commitment, or converting to or continuing any interest option for a Loan, or to increase the cost to Lender of issuing or maintaining any Letter of Credit (or of maintaining its obligation to issue a Letter of Credit), or to reduce the amount of any sum received or receivable by Lender hereunder (whether of principal, interest or any other amount) then, upon request by Lender, Borrowers will pay to Lender such additional amount(s) as will compensate it for the additional costs incurred or reduction suffered.

3.7.2. Capital Requirements. If Lender, in good faith, determines that a Change in Law affecting Lender or its holding company regarding capital or liquidity requirements has or would have the effect of reducing the rate of return on Lender's or such holding company's capital as a consequence of this Agreement, Commitments, Loans or Letters of Credit to a level below that which Lender or such holding company could have achieved but for such Change in Law (taking into consideration its policies with respect to capital adequacy), then from time to time Borrowers will pay to Lender such additional amounts as will compensate it or its holding company for the reduction suffered.

"Change in Law" means the occurrence, after the date of this Agreement, of (a) the adoption or taking effect of, or any change in, any law, rule, regulation or treaty, or (b) the making, issuance or application of any request, guideline, requirement or directive (whether or not having the force of law) by any governmental authority, provided that "Change in Law" shall include all requests, rules, guidelines, requirements or directives (i) under or relating to the Dodd-Frank Wall Street Reform and Consumer Protection Act, or (ii) promulgated pursuant to Basel III by the Bank for International Settlements, the Basel Committee on Banking Supervision (or any similar authority) and shall in each case be deemed to be a "Change in Law" regardless of the date enacted, adopted or issued.

3.8. Maximum Interest. Notwithstanding anything to the contrary contained in any Loan Document, the interest paid or agreed to be paid under the Loan Documents shall not exceed the maximum rate of non-usurious interest permitted by applicable law (“maximum rate”). If Lender shall receive interest in an amount that exceeds the maximum rate, the excess interest shall be applied to the principal of the Obligations or, if it exceeds such unpaid principal, refunded to Borrowers. In determining whether the interest contracted for, charged or received by Lender exceeds the maximum rate, Lender may (a) characterize any payment that is not principal as an expense, fee or premium rather than interest; (b) exclude voluntary prepayments and the effects thereof; and (c) amortize, prorate, allocate and spread in equal or unequal parts the total amount of interest throughout the contemplated term of the Obligations hereunder.

3.9. Interest Rate Not Ascertainable; LIBOR Replacement. Notwithstanding anything to the contrary in this Agreement or any other Loan Documents, if Lender determines (which determination shall be conclusive absent manifest error), or the Borrower notifies Lender that the Borrower has determined, that:

- (i) adequate and reasonable means do not exist for ascertaining LIBOR, including, without limitation, because the LIBOR Screen Rate is not available or published on a current basis and such circumstances are unlikely to be temporary; or
- (ii) the administrator of the LIBOR Screen Rate or a governmental authority having jurisdiction over Lender has made a public statement identifying a specific date after which LIBOR or the LIBOR Screen Rate shall no longer be made available, or used for determining the interest rate of loans (such specific date, the “Scheduled Unavailability Date”), or
- (iii) loans currently being executed, or that include language similar to that contained in this Section, are being executed or amended (as applicable) to incorporate or adopt a new benchmark interest rate to replace LIBOR,

then, reasonably promptly after such determination by Lender or receipt by Lender of such notice, as applicable, Lender and the Borrower may amend this Agreement to replace LIBOR with an alternate benchmark rate (including any mathematical or other adjustments to the benchmark (if any) incorporated therein), giving due consideration to any evolving or then existing convention for similar U.S. dollar denominated syndicated credit facilities for such alternative benchmarks (any such proposed rate, a “LIBOR Successor Rate”), together with any proposed LIBOR Successor Rate Conforming Changes (as defined below) and any such amendment shall become effective at 5:00 p.m. (New York time) on the fifth Business Day after Lender shall have delivered such proposed amendment to the Borrowers.

If no LIBOR Successor Rate has been determined and the circumstances under clauses (i) or (ii) above exist or the Scheduled Unavailability Date has occurred (as applicable), Lender will promptly so notify the Borrower. Thereafter, (x) the obligation of the Lenders to make or maintain Loans based on LIBOR shall be suspended, and (y) the Loans based on LIBOR shall no longer be utilized in determining the Base Rate. Upon receipt of such notice, the Borrower may revoke any pending Notice of Borrowing or, failing that, all outstanding Loans and any Loans thereafter made by Lender shall bear interest at the Base Rate *plus* the Applicable Margin *less* 1.00% until such time as Lender notifies Borrower that a LIBOR Successor Rate has been determined.

Notwithstanding anything else herein, any definition of LIBOR Successor Rate shall provide that in no event shall such LIBOR Successor Rate be less than zero for purposes of this Agreement.

Section 4. LOAN ADMINISTRATION

4.1. Manner of Borrowing and Funding Revolver Loans.

4.1.1. Notice of Borrowing.

(a) Whenever Borrowers desire funding of a Revolver Loan, Borrower Agent shall give Lender a Notice of Borrowing. Such notice must be received by Lender by 11:00 a.m. Eastern Standard Time on the requested funding date for the Loan. Notices received after such time shall be deemed received on the next Business Day. Each Notice of Borrowing shall be irrevocable and shall specify (A) the amount of the Borrowing and (B) the requested funding date (which must be a Business Day).

(b) Unless payment is otherwise made by Borrower, the becoming due of any Obligation (whether principal, interest, fees, costs, expenses or other charges, including LC Obligations, Cash Collateral and Bank Product Debt) shall be deemed to be a request for a Revolver Loan on the due date in the amount due and the Loan proceeds shall be disbursed as direct payment of such Obligation. In addition, Lender may, at its option, charge such amount against any operating, investment or other account of Borrower maintained with Lender or any of its Affiliates.

(c) Presentation for payment of any Payment Item in any disbursement account of Borrowers maintained with Lender when there are insufficient funds to cover it shall be deemed to be a request for a Revolver Loan on the presentation date, in the amount of the Payment Item. Proceeds of the Loan may be disbursed directly to the account.

4.1.2. Notices. Borrowers, through the Borrower Agent, may request and transfer funds based on telephonic or e-mailed instructions to Lender. Borrower Agent shall confirm each such request by prompt delivery to Lender of a Notice of Borrowing but if it differs materially from the action taken by Lender, the records of Lender shall govern. Lender shall not have any liability for any loss suffered by a Borrower as a result of Lender acting upon its understanding of telephonic or e-mailed instructions from a person believed in good faith to be a person authorized to give such instructions on a Borrower's behalf.

4.2. Effect of Termination.

On the Commitment Termination Date, the Obligations shall be immediately due and payable, and each Secured Party may terminate its Bank Products. Until Full Payment of the Obligations, all undertakings of Borrowers contained in the Loan Documents shall continue, and Lender shall retain its Liens in the Collateral and all of its rights and remedies under the Loan Documents. Lender shall not be required to terminate its Liens unless it receives Cash Collateral or a written agreement, in each case satisfactory to it, protecting it from dishonor or return of any Payment Item previously applied to the Obligations. **Sections 3.4, 3.7, 5.5, 12.2**, this Section, and each indemnity or waiver given by an Obligor in any Loan Document, shall survive Full Payment of the Obligations.

4.3. Borrower Agent.

Each Borrower hereby designates ISA ("Borrower Agent") as its representative and agent for all purposes under the Loan Documents, including requests for and receipt of Loans, delivery or receipt of communications, delivery of Borrowing Base Reports and other information at any time delivered by the Borrowers to Lender, payment of Obligations, requests for waivers, amendments or other accommodations, actions under the Loan Documents (including in respect of compliance with covenants), and all other dealings with Lender. Borrower Agent hereby accepts such appointment. Lender shall be entitled to rely upon, and shall be fully protected in relying upon, any notice or communication (including any Notice of Borrowing) delivered by Borrower Agent on behalf of any Borrower. Lender may give any notice or communication with a Borrower hereunder to Borrower Agent on behalf of such Borrower. Lender shall have the right, in its discretion, to deal exclusively with Borrower Agent for all purposes under the Loan Documents. Each Borrower agrees that any notice, election, communication, delivery, representation, agreement, action, omission or undertaking by Borrower Agent shall be binding upon and enforceable against such Borrower.

4.4. One Obligation.

The Loans and other Obligations constitute one general obligation of Borrowers and are secured by Lender's Lien on all Collateral; *provided, however*, that Lender shall be deemed to be a creditor of, and the holder of a separate claim against, each Borrower to the extent of any Obligations jointly or severally owed by such Borrower.

SECTION 5. PAYMENTS

5.1. General Payment Provisions. All payments of Obligations shall be made without offset, counterclaim or defense of any kind, free and clear of (and without deduction for) any taxes or other amounts, and in immediately available funds, not later than 12:00 noon on the due date. Any payment after such time shall be deemed made on the next Business Day. Borrowers agree that Lender shall have the continuing, exclusive right to apply and reapply payments and proceeds of Collateral against Obligations, in such manner as Lender deems advisable in good faith.

5.2. Repayment of Revolver Loans. Revolver Loans shall be due and payable in full on the Commitment Termination Date, unless payment is sooner required hereunder. Revolver Loans may be prepaid from time to time, without penalty or premium. If an Overadvance exists at any time, Borrowers shall, on the sooner of Lender's demand or the first Business Day after any Borrower has knowledge thereof, repay Revolver Loans in an amount sufficient to reduce Revolver Usage to the Borrowing Base. In addition, in the event of a Permitted Asset Disposition of the 7110 Grade Lane Real Property, Borrowers shall cause ISA Real Estate to remit such proceeds to Borrower Agent, and Borrowers shall use such proceeds to prepay the Revolver Loans in an amount equal to the net proceeds of such sale or disposition.

5.3. Repayment of Term Loan.

5.3.1. Payment of Principal

The Term Loan shall be repaid on the first day of each quarter, commencing on January 1, 2019, in consecutive quarterly installments of \$89,286.00, until the Term Loan Maturity Date, on which date all principal, interest and other amounts owing with respect to the Term Loan shall be due and payable in full. Once repaid, whether such repayment is voluntary or required, no portion of the Term Loan may be reborrowed.

5.3.2. Mandatory Prepayments

(a) Concurrently with any Permitted Asset Disposition of any Equipment or Real Estate (other than the sale of the 7110 Grade Lane Real Property), Borrowers shall prepay the Term Loan in an amount equal to the net proceeds of such sale or other disposition;

(b) Concurrently with the receipt of any proceeds of insurance or condemnation awards paid in respect of any Equipment or Real Estate, Borrower shall prepay the Term Loan in an amount equal to such proceeds, subject to **Section 8.6.2**;

(c) Concurrently with the receipt of any key man life insurance proceeds, Borrower shall prepay the Term Loan in an amount equal to such proceeds;

(d) Concurrently with any issuance of equity or other ownership interests by Borrower, Borrower shall prepay the Term Loan in an amount equal to (i) the fifty percent (50%) of the net proceeds of such issuance if no Event of Default exists and is continuing and (ii) one hundred percent (100%) of the net proceeds of such issuance if an Event of Default exists and is continuing; and

(e) On the Commitment Termination Date, Borrower shall prepay the entire Term Loan (unless sooner repaid hereunder)

5.4. Payment of Other Obligations. Obligations other than Loans, including LC Obligations and fess, cost and expenses, shall be paid by Borrower as provided in the Loan Documents or, if no payment date is specified, **on demand**.

5.5. Marshaling; Payments Set Aside. Lender shall have no obligation to marshal any assets in favor of Borrowers or against any Obligations. If any payment by or on behalf of Borrowers is made to Lender or if Lender exercises a right of setoff, and any of such payment or setoff is subsequently invalidated, declared to be fraudulent or preferential, set aside or required (including pursuant to any settlement entered into by Lender in its discretion) to be repaid to a trustee, receiver or any other Person, then the Obligation originally intended to be satisfied, and all Liens, rights and remedies relating thereto, shall be revived and continued in full force and effect as if such payment or setoff had not occurred.

5.6. Application of Payments; Dominion Account. The ledger balance in the main Dominion Account as of the end of a Business Day shall be applied to the Obligations at the beginning of the next Business Day. If a credit balance results from such application, it shall not accrue interest in favor of Borrowers and shall be made available to Borrowers as long as no Event of Default exists. For the purposes of calculating interest, Lender will be deemed to have applied funds deposited to the Dominion Account or otherwise received by Lender one Business Day following the Business Day of deposit to the Dominion Account or receipt by Lender.

5.7. Account Stated. Lender shall maintain, in accordance with its customary practices, loan account(s) evidencing the Debt of Borrowers hereunder. Any failure of Lender to record anything in a loan account, or any error in doing so, shall not limit or otherwise affect the obligation of Borrowers to pay any amount owing hereunder. Entries made in a loan account shall constitute presumptive evidence of the information contained therein and shall be conclusive and binding on Borrowers absent manifest error

5.8. Nature and Extent of Each Borrowers' Liability.

5.8.1. Joint and Several Liability. Each Borrower agrees that it is jointly and severally liable for, and absolutely and unconditionally guarantees to Lender the prompt payment and performance of, all Obligations. Each Borrower agrees that its guaranty obligations hereunder constitute a continuing guaranty of payment and not of collection, that such obligations shall not be discharged until Full Payment of the Obligations, and that such obligations are absolute and unconditional, irrespective of (a) the genuineness, validity, regularity, enforceability, subordination or any future modification of, or change in, any Obligations or Loan Document, or any other document, instrument or agreement to which any Obligor is or may become a party or be bound; (b) the absence of any action to enforce this Agreement (including this Section) or any other Loan Document, or any waiver, consent or indulgence of any kind by Lender with respect thereto; (c) the existence, value or condition of, or failure to perfect a Lien or to preserve rights against, any security or guaranty for any Obligations or any action, or the absence of any action, by Lender in respect thereof (including the release of any security or guaranty); (d) the insolvency of any Obligor; (e) any election by Lender in an Insolvency Proceeding for the application of Section 1111(b)(2) of the Bankruptcy Code; (f) any borrowing or grant of a Lien by any other Borrower, as debtor-in-possession under Section 364 of the Bankruptcy Code or otherwise; (g) the disallowance of any claims of Lender against any Obligor for the repayment of any Obligations under Section 502 of the Bankruptcy Code or otherwise; or (h) any other action or circumstances that might otherwise constitute a legal or equitable discharge or defense of a surety or guarantor, except Full Payment of the Obligations.

5.8.2. Waivers.

(a) Each Borrower expressly waives all rights that it may have now or in the future under any statute, at common law, in equity or otherwise, to compel Lender to marshal assets or to proceed against any Obligor, other Person or security for the payment or performance of any Obligations before, or as a condition to, proceeding against such Borrower. Each Borrower waives all defenses available to a surety, guarantor or accommodation co-obligor other than full payment of Obligations and waives, to the maximum extent permitted by law, any right to revoke any guaranty of Obligations as long as it is a Borrower. It is agreed among each Borrower and Lender that the provisions of this **Section 5.8** are of the essence of the transaction contemplated by the Loan Documents and that, but for such provisions, Lender would decline to make Loans and issue Letters of Credit. Each Borrower acknowledges that its guaranty pursuant to this Section is necessary to the conduct and promotion of its business, and can be expected to benefit such business.

(b) Lender may, in its discretion, pursue such rights and remedies provided for under this Agreement, the other Loan Documents, or applicable law, as it deems appropriate, including realization upon Collateral or any Real Estate by judicial foreclosure or nonjudicial sale or enforcement in accordance with applicable law, without affecting any rights and remedies under this **Section 5.8.2**. If, in taking any action in connection with the exercise of any rights or remedies, Lender shall forfeit any other rights or remedies, including the right to enter a deficiency judgment against any Borrower or other Person, whether because of any applicable laws pertaining to “election of remedies” or otherwise, each Borrower consents to such action and waives any claim based upon it, even if the action may result in loss of any rights of subrogation that any Borrower might otherwise have had. Any election of remedies that results in denial or impairment of the right of Lender to seek a deficiency judgment against any Borrower shall not impair any other Borrower’s obligation to pay the full amount of the Obligations. Each Borrower waives all rights and defenses arising out of an election of remedies, such as nonjudicial foreclosure with respect to any security for Obligations, even though that election of remedies destroys such Borrower’s rights of subrogation against any other Person. Lender may bid Obligations, in whole or part, at any foreclosure, trustee or other sale, including any private sale, and the amount of such bid need not be paid by Lender but shall be credited against the Obligations. The amount of the successful bid at any such sale, whether Lender or any other Person is the successful bidder, shall be conclusively deemed to be the fair market value of the Collateral, and the difference between such bid amount and the remaining balance of the Obligations shall be conclusively deemed to be the amount of the Obligations guaranteed under this **Section 5.8**, notwithstanding that any present or future law or court decision may have the effect of reducing the amount of any deficiency claim to which Lender might otherwise be entitled but for such bidding at any such sale.

5.8.3. Extent of Liability: Contribution.

(a) Notwithstanding anything herein to the contrary, each Borrower’s liability under this **Section 5.8** shall not exceed the greater of (i) all amounts for which such Borrower is primarily liable, as described in clause (c) below, and (ii) such Borrower’s Allocable Amount (as defined in Section 5.8.3(b) below).

(b) If any Borrower makes a payment under this **Section 5.8.3** of any Obligations (other than amounts for which such Borrower is primarily liable) (a “Guarantor Payment”) that, taking into account all other Guarantor Payments previously or concurrently made by any other Borrower, exceeds the amount that such Borrower would otherwise have paid if each Borrower had paid the aggregate Obligations satisfied by such Guarantor Payments in the same proportion that such Borrower’s Allocable Amount bore to the total Allocable Amounts of all Borrowers, then such Borrower shall be entitled to receive contribution and indemnification payments from, and to be reimbursed by, each other Borrower for the amount of such excess, ratably based on their respective Allocable Amounts in effect immediately prior to such Guarantor Payment. The “Allocable Amount” for any Borrower shall be the maximum amount that could then be recovered from such Borrower under this **Section 5.8.3** without rendering such payment voidable under Section 548 of the Bankruptcy Code or under any applicable state fraudulent transfer or conveyance act, or similar statute or common law.

(c) **Section 5.8.3(a)** shall not limit the liability of any Borrower to pay or guarantee Loans made directly or indirectly to it (including Loans advanced hereunder to any other Person and then re-loaned or otherwise transferred to, or for the benefit of, such Borrower), Obligations in respect of Bank Products incurred to support its business, and all accrued interest, fees, expenses and other related Obligations with respect thereto, for which such Borrower shall be primarily liable for all purposes hereunder. Lender shall have the right, at any time in their discretion, to condition Loans and Letters of Credit upon a separate calculation of borrowing availability for each Borrower and to restrict the disbursement and use of Loans and Letters of Credit to a Borrower based on that calculation.

5.8.4. Joint Enterprise. Each Borrower has requested that Lender make this credit facility available to Borrowers on a combined basis, in order to finance Borrowers' business most efficiently and economically. Borrowers' business is a mutual and collective enterprise, and the successful operation of each Borrower is dependent upon the successful performance of the integrated group. Borrowers believe that consolidation of their credit facility will enhance the borrowing power of each Borrower and ease administration of the facility, all to their mutual advantage. Borrowers acknowledge that Lender's willingness to extend credit and to administer the Collateral on a combined basis hereunder is done solely as an accommodation to Borrowers and at Borrowers' request.

5.8.5. Subordination. Each Borrower hereby subordinates any claims, including any rights at law or in equity to payment, subrogation, reimbursement, exoneration, contribution, indemnification or set off, that it may have at any time against any other Obligor, howsoever arising, to the indefeasible Full Payment of its Obligations.

SECTION 6. CONDITIONS PRECEDENT

6.1. Conditions Precedent to Initial Loans. In addition to the conditions set forth in **Section 6.2**, Lender shall not be required to fund any requested Loan, issue any Letter of Credit or otherwise extend credit to Borrowers hereunder, until the date ("Closing Date") that each of the following conditions has been satisfied:

(a) Each Loan Document shall have been duly executed and delivered to Lender by each of the signatories thereto, and Borrowers shall be in compliance with all terms thereof.

(b) Lender shall have received acknowledgments of all filings or recordings necessary to perfect its Liens in the Collateral, as well as UCC and Lien searches and other evidence satisfactory to Lender that such Liens are the only Liens upon the Collateral, except Permitted Liens.

(c) Lender shall have received the Related Real Estate Documents for all Real Estate subject to a Mortgage or negative pledge.

(d) Lender shall have received duly executed agreements establishing the Dominion Account and related lockbox in form and substance reasonably satisfactory to Lender.

(e) Lender shall have received certificates, in form and substance reasonably satisfactory to it, from a knowledgeable senior officer of each Borrower certifying that, after giving effect to the initial Loans and transactions hereunder, (i) such Borrower is solvent; (ii) no Event of Default exists; (iii) the representations and warranties set forth in **Section 9** are true and correct in all material respects; and (iv) such Borrower has complied in all material respects with all agreements and conditions to be satisfied by it under the Loan Documents.

(f) Lender shall have received copies of Borrowers' organizational documents and all resolutions authorizing the execution and delivery of the Loan Documents and any other resolutions adopted with respect to this credit facility, as well as any necessary third party or governmental consents and/or Lien Waivers.

(g) Lender shall have received copies of the charter documents of Borrowers, certified by the Secretary of State or other appropriate official of Borrowers' jurisdiction of organization. Lender shall have received good standing certificates for Borrowers, issued by the Secretary of State or other appropriate official of Borrowers' jurisdiction of organization and each jurisdiction where Borrowers' conduct of business or ownership of Property necessitates qualification.

(h) Lender shall have received copies of policies or certificates of insurance and insurance endorsements for the insurance policies carried by Borrowers, all in compliance with the Loan Documents.

(i) Lender shall have completed its business, financial and legal due diligence of Borrowers, including completion of a roll-forward of its previous field examination, in each instance, with results satisfactory to Lender. No material adverse change in the financial condition of Borrower or in the quality, quantity or value of any Collateral shall have occurred since December 31, 2017.

(j) Borrowers shall have paid all fees and expenses to be paid to Lender on the Closing Date.

(k) Lender shall have received (i) Borrowers' financial projections demonstrating Borrowers' ability to comply with Section 10.3, (ii) Borrowers' interim financial statements (which shall be prepared as of a date not more than 30 days prior to the Closing Date), (iii) Borrowers' financial statements for the month ended September 30, 2018, and (iv) a Borrowing Base Report prepared as of November 3, 2018, in each instance, in form and substance reasonably satisfactory to Lender in all respects.

(l) Upon giving effect to the initial funding of Loans and the payment by Borrowers of all reasonable fees and expenses actually incurred in connection herewith as well as any payables stretched beyond their customary payment practices, Availability shall be at least \$3,000,000.

6.2. Conditions Precedent to All Credit Extensions. Lender shall not be required to fund any Loans, issue any Letters of Credit, or grant any other accommodation to or for the benefit of Borrowers, unless the following conditions are satisfied:

(a) No Event of Default shall exist at the time of, or result from, such funding, issuance or grant;

(b) The representations and warranties of Borrowers in the Loan Documents shall be true and correct in all material respects on the date of, and upon giving effect to, such funding, issuance or grant (except for representations and warranties that expressly relate to an earlier date);

(c) All conditions precedent in any other Loan Document shall be satisfied in all material respects;

(d) No Material Adverse Effect shall have occurred; and

(e) With respect to a Letter of Credit issuance, all LC Conditions shall be satisfied, in all material respects.

Each request (or deemed request) by a Borrower for funding of a Loan, issuance of a Letter of Credit, or grant of an accommodation shall constitute a representation by Borrowers that the foregoing conditions are satisfied on the date of such request and on the date of such funding, issuance or grant. As an additional condition to any funding, issuance or grant, Lender shall have received such other information, documents, instruments and agreements as it may reasonably request.

SECTION 7. COLLATERAL

7.1. Grant of Security Interest. To secure the prompt payment and performance of its Obligations, each Borrower hereby grants to Lender a continuing security interest in and Lien upon all Property of Borrowers, including all of the following Property, whether now owned or hereafter acquired, and wherever located:

- (a) all Accounts;
- (b) all Chattel Paper, including electronic chattel paper;
- (c) all Commercial Tort Claims;
- (d) all Deposit Accounts;
- (e) all Documents;
- (f) all General Intangibles, including intellectual property;
- (g) all Goods, including Inventory, Equipment and fixtures;
- (h) all Instruments;
- (i) all Investment Property;
- (j) all Letter-of-Credit Rights;
- (k) all Supporting Obligations;
- (l) all monies, whether or not in the possession or under the control of Lender, or a bailee or Affiliate of Lender, including any Cash Collateral;
- (m) all accessions to, substitutions for, and all replacements, products, and cash and non-cash proceeds of the foregoing, including proceeds of and unearned premiums with respect to insurance policies, and claims against any Person for loss, damage or destruction of any Collateral; and
- (n) all books and records (including customer lists, files, correspondence, tapes, computer programs, print-outs and computer records) pertaining to the foregoing.

7.2. Lien on Deposit Accounts; Cash Collateral.

7.2.1. Deposit Accounts. To further secure the prompt payment and performance of its Obligations, each Borrower hereby grants to Lender a continuing security interest in and Lien upon all amounts credited to any Deposit Account of such Borrower, including sums in any blocked, lockbox, sweep or collection account. Each Borrower hereby authorizes and directs each bank or other depository to deliver to Lender, upon request, all balances in any Deposit Account maintained for such Borrower, without inquiry into the authority or right of Lender to make such request. Notwithstanding anything in this Agreement to the contrary, Borrower shall not be required to perfect Lender's Lien on any Excluded Account.

7.2.2. Cash Collateral. Cash Collateral may be invested, at Lender's discretion (and with the consent of Borrower Agent, as long as no Event of Default exists), but Lender shall have no duty to do so, regardless of any agreement or course of dealing with Borrowers, and Lender shall have no responsibility for any investment or loss. As security for its Obligations, each Borrower hereby grants to Lender a security interest in and Lien upon all Cash Collateral held from time to time and all proceeds thereof, whether held in a Cash Collateral Account or otherwise. Lender may apply Cash Collateral to the payment of Obligations as they become due, in such order as Lender may elect. Each Cash Collateral Account and all Cash Collateral shall be under the sole dominion and control of Lender, and no Borrower or other Person shall have any right to any Cash Collateral, until the Full Payment of the Obligations.

7.3. Real Estate Collateral.

7.3.1. Lien on Real Estate. The Obligations shall also be secured by Mortgages upon all Real Estate owned by 7200 Grade Lane and 7124 Grade Lane located at (a) 7200 Grade Lane, Louisville, KY 40213, (b) 7210 Grade Lane, Louisville, KY 40213, and (c) 7124 Grade Lane, Louisville, KY 40213. The Mortgages shall be duly recorded, at Borrowers' expense, in each office where such recording is required to constitute an enforceable Lien on the Real Estate covered thereby.

7.3.2. Collateral Assignment of Leases. To further secure the prompt payment and performance of its Obligations, Borrowers hereby transfer and assign to Lender all of Borrowers' right, title and interest in, to and under all now or hereafter existing leases of real Property to which each Borrower is a party, whether as lessor or lessee, and all extensions, renewals, modifications and proceeds thereof.

7.4. Other Collateral.

7.4.1. Commercial Tort Claims. Borrowers shall promptly notify Lender in writing if any Borrower has a Commercial Tort Claim, and shall take such actions as Lender deems reasonably necessary to subject such claim to a duly perfected, first priority Lien in favor of Lender.

7.4.2. Certain After-Acquired Collateral. Borrowers shall promptly notify Lender in writing if, after the Closing Date, any Borrower obtains any interest in any Collateral and shall promptly take such actions as Lender deems reasonably necessary to effect Lender's duly perfected, first priority Lien upon such Collateral, including obtaining any appropriate possession, control agreement or Lien Waiver. If any Collateral is in the possession of a third party, at Lender's request, Borrowers shall use commercially reasonable efforts to obtain an acknowledgment that such third party holds the Collateral for the benefit of Lender.

7.5. Limitations. The Lien on Collateral granted hereunder is given as security only and shall not subject Lender to, or in any way modify, any obligation or liability of Borrowers relating to any Collateral.

7.6. Further Assurances; Extent of Liens. All Liens granted to Lender under the Loan Documents are for the benefit of Secured Parties. Promptly upon request, Borrowers shall deliver such instruments and agreements, and shall take such actions, as Lender deems reasonably necessary under applicable law to evidence or perfect its Lien on any Collateral, or otherwise to give effect to the intent of this Agreement. Each Borrower authorizes Lender to file any financing statement that describes the Collateral as "all assets" or "all personal property" of Borrowers, or words to similar effect, and ratifies any action taken by Lender before the Closing Date to effect or perfect its Lien on any Collateral.

7.7. Real Estate Collateral. If any Borrower acquires any Real Estate hereafter, such Borrower shall (i) provide written notice thereof to Lender and (ii) if requested by Lender, within 45 days, execute, deliver and record a Mortgage sufficient to create a first priority Lien in favor of Lender on such Real Estate, provided, that, prior to Lender's accepting such Real Estate as Collateral, Lender shall have completed its due diligence on such Real Estate, including compliance with all flood insurance requirements set forth herein with respect to such Real Estate.

SECTION 8. COLLATERAL ADMINISTRATION

8.1. Borrowing Base Reports. By the 15th day of each month, Borrowers shall deliver to Lender a full Borrowing Base Report as of the close of business of the previous month, and during the existence and continuation of an Event of Default, at such other times as Lender may request; provided, that, (i) Borrowers shall deliver to Lender a weekly gross Accounts report (which will not include any change in ineligible Accounts) on or before the Tuesday of each week reflecting all Accounts as of the end of the previous week and (ii) in addition to the foregoing reports, Borrower shall also deliver the Accounts reports set forth in **Section 8.2.1** and the Inventory reports set forth in **Section 8.3.1**. All information (including calculation of Availability or Average Daily Availability) in a Borrowing Base Report shall be certified by Borrowers. Lender may from time to time adjust such report (a) to reflect Lender's reasonable estimate of declines in value of Collateral, due to collections received in the Dominion Account or otherwise; and (b) to the extent any information or calculation does not comply with this Agreement.

8.2. Accounts.

8.2.1. Records and Schedules of Accounts. Borrowers shall provide to Lender, on or before the 15th day of each month, (a) a detailed aged trial balance of all Accounts as of the end of the preceding month, specifying each Account's Account Debtor name and address, amount, invoice date and due date, showing any discount, allowance, credit, authorized return or dispute, and including such proof of delivery, copies of invoices and invoice registers, copies of related documents, repayment histories, status reports and other information as Lender may reasonably request; and (b) a monthly roll forward report of all Accounts from the previous month. If Accounts in an aggregate face amount of \$50,000 or more cease to be Eligible Accounts, Borrowers shall notify Lender of such occurrence promptly (and in any event within one (1) Business Day) after Borrower has knowledge thereof.

8.2.2. Account Verification. Lender, at its sole cost and expense (unless an Event of Default exists), shall have the right at any time, in the name of Lender, any designee of Lender or Borrowers, to verify the validity, amount or any other matter relating to any Accounts of Borrowers by mail, telephone or otherwise.

8.2.3. Maintenance of Dominion Account. Borrowers shall maintain the Dominion Account pursuant to lockbox or other arrangements reasonably acceptable to Lender establishing Lender's control over and Lien in the lockbox and the Dominion Account, and requiring immediate deposit of all remittances received in the lockbox to the Dominion Account.

8.2.4. Proceeds of Collateral. Borrowers shall request in writing and otherwise take all commercially reasonable steps to ensure that all payments on Accounts or otherwise relating to Collateral are made directly to the Dominion Account (or a lockbox relating to the Dominion Account). If any Borrower or any Subsidiary receives cash or Payment Items with respect to any Collateral, it shall hold same in trust for Lender and promptly (not later than the next Business Day) deposit same into the Dominion Account. In furtherance of the foregoing, Borrowers shall cause Midcap Business Credit LLC ("Midcap") to promptly (not later than the next Business Day) deposit all payments on Accounts or otherwise relating to Collateral received by Midcap after the Closing Date into the Dominion Account.

8.3. Inventory.

8.3.1. Records and Reports of Inventory. Each Borrower shall keep accurate and complete records of its Inventory, including costs and daily withdrawals and additions, and shall submit to Lender Inventory and reconciliation reports, in form and substance reasonably satisfactory to Lender, on or before the Tuesday of every week based on the valuation utilized for the immediately prior month, provided, that, if the unit valuation of Inventory, based on the lower of cost or market, decreases by ten percent (10%) or more from the valuation utilized for the immediately prior month, the weekly Inventory reports shall be updated using the current lower of cost or market valuation. Each Borrower shall conduct a physical inventory at least once per calendar year (and on a more frequent basis if requested by Lender when an Event of Default exists) and periodic cycle counts consistent with historical practices, and shall provide to Lender a report based on each such inventory and count promptly upon completion thereof, together with such supporting information as Lender may reasonably request. Lender may participate in and observe each physical count at its sole cost and expense unless an Event of Default then exists.

8.3.2. Returns of Inventory. No Borrower shall return any Inventory to a supplier, vendor or other Person, whether for cash, credit or otherwise, unless (a) such return is in the ordinary course of business; (b) no Event of Default or Overadvance exists or would result therefrom; (c) Lender is promptly notified of the aggregate Value of all Inventory returned in each month; and (d) any payment received by Borrowers for a return is promptly remitted to Lender for application to the Obligations.

8.3.3. Acquisition, Sale and Maintenance. No Borrower shall acquire or accept any Inventory on consignment or approval, and shall take all steps to assure that all Inventory is produced in accordance with applicable law, including the Fair Labor Standards Act of 1938 (the "FLSA"). No Borrower shall sell any Inventory on consignment or approval or any other basis under which the customer may return or require Borrowers to repurchase such Inventory. Borrowers shall use, store and maintain all Inventory with reasonable care and caution, in accordance with applicable standards of any insurance and in conformity with all applicable law, and shall make current rent payments (within applicable grace periods provided for in leases) at all locations where any Collateral is located.

8.4. Equipment

8.4.1. Records and Schedules of Equipment. Each Borrower shall keep accurate and complete records of its Equipment, and shall submit to Lender a current schedule thereof, at the times and in form reasonably satisfactory to Lender. Promptly upon request, Borrowers shall deliver to Lender evidence of their ownership or interests in any Equipment.

8.4.2. Dispositions of Equipment. No Borrower shall sell, lease or otherwise dispose of any Equipment, without the prior written consent of Lender, other than replacement of Equipment that is worn, damaged or obsolete with Equipment of like function and value, if the replacement Equipment is acquired substantially contemporaneously with such disposition and is free of Liens.

8.4.3. Condition of Equipment. The Equipment is and will remain in good operating condition and repair, and all necessary replacements and repairs have been and will be made so that the value and operating efficiency of the Equipment is preserved at all times, reasonable wear and tear excepted. No Borrower shall permit any Equipment to become affixed to real Property unless any landlord or mortgagee delivers a Lien Waiver.

8.5. Deposit Accounts. **Schedule 8.5** shows all Deposit Accounts maintained by Borrowers, including Dominion Accounts. Within sixty (60) days of the Closing Date, all of Borrowers' primary Deposit Accounts, including the Dominion Account, shall be maintained with Lender or such other depository bank reasonably acceptable to Lender. All of Borrowers' Deposit Accounts shall be identified to Lender in writing. Borrowers shall take all actions reasonably necessary to establish Lender's control of each such Deposit Account (other than Excluded Accounts and accounts exclusively used for payroll, payroll taxes, or employee benefits). Each Borrower shall be the sole account holder of each of its respective Deposit Accounts and shall not allow any other Person (other than Lender) to have control over a Deposit Account or any Property deposited therein. No Borrower shall, without prior notice to Lender, open or close a Deposit Account.

8.6. General Provisions

8.6.1. Location of Collateral. All tangible items of Collateral shall at all times be kept by Borrowers at the business locations disclosed in writing to Lender **on Schedule 8.6.1**, except that Borrowers may (a) make sales or other dispositions of Collateral in the ordinary course of business for fair market value; and (b) move Collateral to another location upon 10 Business Days prior written notice to Lender.

8.6.2. Insurance of Collateral; Condemnation Proceeds.

(a) Borrowers shall maintain insurance with respect to the Collateral, covering casualty, hazard, theft, malicious mischief, flood and other risks, in amounts, with endorsements and with insurers reasonably satisfactory to Lender. All proceeds under each policy shall be payable to Lender. Upon Lender's request, Borrowers shall deliver to Lender the originals or certified copies of its insurance policies, updated flood plain searches and other information relating to any Borrower's insurance and insurance policies. Each policy shall include endorsements reasonably satisfactory to Lender. If any Borrower fails to provide and pay for any insurance, Lender may, at its option, but shall not be required to, procure the insurance and charge Borrowers therefor. Without limiting the foregoing, (i) any increase, extension, or renewal of the credit facility provided pursuant to this Agreement shall be subject to flood insurance due diligence and flood insurance compliance reasonably satisfactory to Lender, and (ii) in the event that any Real Estate is pledged or mortgaged as Collateral for the Obligations, and such Real Estate is located in a special flood hazard zone, Borrowers shall maintain insurance with respect to the Real Estate covering flood and other risks, in amounts (including as required by Flood Insurance Laws) and with endorsements and with insurers satisfactory to Lender.

(b) Subject to clause (c) below, any proceeds of insurance (other than proceeds from workers' compensation or D&O insurance) and any awards arising from condemnation of any Collateral shall be paid to Lender and shall be applied to payment of the Revolver Loans, and then to other Obligations, other than the Term Loan. Subject to clause (c) below, any proceeds or awards that relate to Equipment or Real Estate shall be applied first to the Term Loan, then to Revolver Loans and then to other Obligations.

(c) If requested by Borrowers in writing within 15 days after Lender's receipt of any insurance proceeds or condemnation awards relating to any loss or destruction of Equipment or Real Estate, Borrowers may use such proceeds or awards to repair or replace such Equipment or Real Estate (and until so used, the proceeds shall be held by Lender as Cash Collateral) as long as (i) no Event of Default exists; (ii) such repair or replacement is promptly undertaken and concluded, in accordance with plans reasonably satisfactory to Lender, if applicable; (iii) replacement buildings are constructed on the sites of the original casualties and are of comparable size, quality and utility to the destroyed buildings; (iv) the repaired or replaced Property is free of Liens, other than Permitted Liens that are not Purchase Money Liens; (v) Borrowers comply with disbursement procedures for such repair or replacement as Lender may reasonably require; and (vi) the aggregate amount of such proceeds or awards from any single casualty or condemnation does not exceed \$250,000.

8.6.3. Protection of Collateral. All expenses of protecting, storing, warehousing, insuring, handling, maintaining and shipping any Collateral, all taxes or Royalties payable with respect to any Collateral (including any sale thereof), and all other payments required to be made by Lender to any Person to realize upon any Collateral, shall be borne and paid by Borrowers.

8.6.4. Defense of Title. Each Borrower shall defend its title to Collateral and Lender's Liens therein against all Persons, claims and demands, except Permitted Liens.

8.7. Power of Attorney. Borrower hereby irrevocably constitutes and appoints Lender (and all Persons designated by Lender) as such Borrower's true and lawful attorney (and agent-in-fact) for the purposes provided in this Section. Lender, or Lender's designee, may, without notice and in either its or a Borrower's name, but at the cost and expense of Borrowers:

(a) Endorse Borrowers' name on any Payment Item or other proceeds of Collateral (including proceeds of insurance) that come into Lender's possession or control; and

(b) During the continuance of an Event of Default, (i) notify any Account Debtors of the assignment of their Accounts, demand and enforce payment of Accounts, by legal proceedings or otherwise, and generally exercise any rights and remedies with respect to Accounts; (ii) settle, adjust, modify, compromise, discharge or release any Accounts or other Collateral, or any legal proceedings brought to collect Accounts or Collateral; (iii) sell or assign any Accounts and other Collateral upon such terms, for such amounts and at such times as Lender deems advisable; (iv) collect, liquidate and receive balances in Deposit Accounts or investment accounts, and take control, in any manner, of proceeds of Collateral; (v) endorse any Chattel Paper, Document, Instrument, bill of lading, or other document or agreement relating to any Accounts, Inventory or other Collateral; and (vi) take all other actions as Lender deems appropriate to fulfill Borrowers' obligations under the Loan Documents.

SECTION 9. REPRESENTATIONS AND WARRANTIES

9.1. General Representations and Warranties. To induce Lender to enter into this Agreement and to make available the Commitments, Loans and Letters of Credit, each Borrower represents and warrants that:

9.1.1. Organization and Qualification. Each Borrower and its Subsidiaries is duly organized, validly existing and in good standing under the laws of the jurisdiction of its organization. Each Borrower and its Subsidiaries is duly qualified, authorized to do business and in good standing as a foreign corporation in each jurisdiction where failure to be so qualified could reasonably be expected to have a Material Adverse Effect.

9.1.2. Power and Authority. Each Obligor is duly authorized to execute, deliver and perform its Loan Documents. The execution, delivery and performance of the Loan Documents have been duly authorized by all necessary action, and do not violate or cause a default under any Obligor's organizational documents, License, contract or agreement to which such Obligor is a party, or any applicable law (other than violations of applicable law that could not reasonably be expected to have a Material Adverse Effect).

9.1.3. Enforceability. Each Loan Document is a legal, valid and binding obligation of each Borrower, enforceable in accordance with its terms, except as enforceability may be limited by bankruptcy, insolvency or similar laws affecting the enforcement of creditors' rights generally.

9.1.4. Capital Structure. **Schedule 9.1.4** shows, for each Borrower and each Subsidiary, its name, jurisdiction of organization, and for each Borrower (other than, for so long as it is a publicly traded company, ISA) holders holding at least 5% of its equity or similar ownership interests. Except as disclosed in writing to Lender on **Schedule 9.1.4**, in the five years preceding the Closing Date, no Borrower has acquired any substantial assets from any other Person nor been the surviving entity in a merger or combination.

9.1.5. Title to Properties; Priority of Liens. Each Borrower and Subsidiary has good and marketable title to (or valid leasehold interests in) all of its Real Estate, and good title to all of its personal Property in each case free of Liens except for Permitted Liens. Each Borrower has paid and discharged all lawful claims that, if unpaid, could become a Lien on its Properties, other than Permitted Liens. All Liens of Lender in the Collateral are duly perfected, first priority Liens, subject only to Permitted Liens that are expressly allowed to have priority over Lender's Liens.

9.1.6. Accounts. Lender may rely, in determining which Accounts are Eligible Accounts, on all statements and representations made by Borrowers with respect thereto. Borrowers warrant, with respect to each Account at the time it is shown as an Eligible Account in a Borrowing Base Report, that:

- (a) it is genuine and in all respects what it purports to be;
- (b) it arises out of a completed, *bona fide* sale and delivery of goods or rendition of services in the ordinary course of business, and substantially in accordance with any purchase order, contract or other document relating thereto;
- (c) it is for a sum certain, maturing as stated in the applicable invoice, a copy of which has been furnished or is available upon request to Lender;
- (d) it is not subject to any offset, Lien (other than Lender's Lien), deduction, defense, dispute, counterclaim or other adverse condition except as arising in the ordinary course of business and disclosed to Lender; and it is absolutely owing by the Account Debtor;
- (e) no purchase order, agreement, document or applicable law restricts assignment of the Account to Lender (regardless of whether, under the UCC, the restriction is ineffective), and the applicable Borrower is the sole payee or remittance party shown on the invoice;
- (f) no extension, compromise, settlement, modification, credit, deduction or return has been authorized or is in process with respect to the Account, except discounts or allowances granted in the ordinary course of business for prompt payment that are reflected on the face of the invoice related thereto and in the reports submitted to Lender hereunder; and
- (g) to the best of Borrowers' knowledge, (i) there are no facts or circumstances that are reasonably likely to impair the enforceability or collectability of such Account; (ii) the Account Debtor had the capacity to contract when the Account arose, continues to meet the applicable Borrower's customary credit standards, is solvent, and has not failed, or suspended or ceased doing business; and (iii) there are no proceedings or actions threatened or pending against any Account Debtor that could reasonably be expected to have a Material Adverse Effect on the Account Debtor's financial condition.

9.1.7. Financial Statements. The consolidated and consolidating balance sheet, and related statements of income, cash flow and shareholders' equity, of Borrowers and their Subsidiaries that have been and are hereafter delivered to Lender, are prepared in accordance with GAAP, and fairly present the financial positions and results of operations of Borrowers and such Subsidiaries at the dates and for the periods indicated. All projections delivered from time to time to Lender have been prepared in good faith, based on reasonable assumptions in light of the circumstances at such time. Since December 31, 2017, there has been no change in the condition, financial or otherwise, of Borrowers or any Subsidiary that could reasonably be expected to have a Material Adverse Effect. No financial statement delivered to Lender at any time contains any untrue statement of a material fact, nor fails to disclose any material fact necessary to make such statement not materially misleading. Each Borrower and Subsidiary is solvent.

9.1.8. Surety Obligations. No Borrower or Subsidiary is obligated as surety or indemnitor under any bond or other contract that assures payment or performance of any obligation of any Person, except as permitted hereunder.

9.1.9. Taxes. Each Borrower and Subsidiary has filed all federal, state and local tax returns and other reports that it is required by law to file, and has paid, or made provision for the payment of, all taxes upon it, its income and its Properties that are due and payable.

9.1.10. Brokers. There are no brokerage commissions, finder's fees or investment banking fees payable in connection with any transactions contemplated by the Loan Documents.

9.1.11. Intellectual Property. Each Borrower and Subsidiary owns or has the lawful right to use all intellectual property necessary for the conduct of its business, without conflict with any rights of others. There is no pending or, to Borrowers' knowledge, threatened claim with respect to Borrower, any Subsidiary, or any of their Property (including any intellectual property). Except as disclosed on **Schedule 9.1.11**, no Borrower or Subsidiary pays or owes no License, Royalty or other compensation to any Person with respect to use or License of any intellectual property. All intellectual property owned, used or licensed by, or otherwise subject to any interests of, Borrower or Subsidiary has been disclosed on **Schedule 9.1.11**.

9.1.12. Governmental Approvals. Each Borrower and Subsidiary has, is in compliance with, and is in good standing with respect to, all governmental approvals necessary to conduct its business and to own, lease and operate its Properties except where such noncompliance or failure to be in good standing could not reasonably be expected to have a Material Adverse Effect.

9.1.13. Compliance with Laws. Each Borrower and Subsidiary has duly complied, and its Properties and business operations are in compliance, in all material respects with all applicable laws, except where noncompliance could not reasonably be expected to have a Material Adverse Effect. There have been no citations, notices or orders of material noncompliance issued to any Borrower under any applicable law. No Inventory has been produced in violation of the FLSA.

9.1.14. Compliance with Environmental Laws. Except as disclosed on **Schedule 9.1.14**, none of Borrowers' or any Subsidiary's past or present operations, Real Estate or other Properties are subject to any federal, state or local investigation to determine whether any remedial action is needed to address any environmental pollution, hazardous material or environmental clean-up. Except as disclosed on **Schedule 9.1.14**, No Borrower or Subsidiary has received any notice regarding any violation of environmental laws. Borrowers and each Subsidiary have no contingent liability with respect to any violation of any environmental law, environmental pollution or hazardous material on any Real Estate now or previously owned, leased or operated by it.

9.1.15. Burdensome Contracts. No Borrower or Subsidiary is a party or subject to any contract, agreement or charter restriction that could reasonably be expected to have a Material Adverse Effect. No Borrower or its Subsidiaries are a party or subject to any Restrictive Agreement, except as (a) shown on **Schedule 9.1.15**, (b) relating to secured Debt permitted hereunder, as long as the restrictions apply only to collateral for such Debt, and (c) constituting customary restrictions on assignment in leases and other contracts. No such Restrictive Agreement prohibits the execution, delivery or performance of any Loan Document by Borrower or Subsidiary.

9.1.16. Litigation. Except as shown on **Schedule 9.1.16**, there are no proceedings or investigations or any litigation pending or, to any Borrower's knowledge, threatened against Borrower or a Subsidiary or any of their businesses, operations, or Properties. Except as disclosed in writing to Lender, no Borrower or Subsidiary has any Commercial Tort Claim. No Borrower or Subsidiary is in default with respect to any order, injunction or judgment of any governmental authority.

9.1.17. No Defaults. No event or circumstance has occurred or exists that constitutes an Event of Default. No Borrower or Subsidiary is in default, and no event or circumstance has occurred or exists that with the passage of time or giving of notice would constitute a default, under any contract or agreement to which such Borrower or such Subsidiaries is a party, or in the payment of any Borrowed Money. To Borrower's knowledge, there is no basis upon which any party (other than a Borrower or Subsidiary) could terminate a contract or agreement prior to its scheduled termination date.

9.1.18. ERISA. Except as disclosed in writing to Lender on **Schedule 9.1.18**:

(a) Each ERISA Plan is in compliance in all material respects with the applicable provisions of ERISA, the Internal Revenue Code, and other federal and state laws. “ERISA” means the Employee Income Retirement Security Act of 1974, as amended from time to time. Capitalized terms used in this section 9.1.18 have the meanings given to them in ERISA (except as otherwise defined in this Agreement).

(b) There are no pending or, to the knowledge of any Borrower, threatened claims, actions or lawsuits, or action by any governmental authority, with respect to any Plan that could reasonably be expected to have a Material Adverse Effect. There has been no prohibited transaction or violation of the fiduciary responsibility rules with respect to any Plan that has resulted in or could reasonably be expected to have a Material Adverse Effect.

(c) There has been no Reportable Event that might constitute grounds for termination of any Plan by the Pension Benefit Guaranty Corporation or for the appointment by any United States District Court of any trustee to administer any Plan.

9.1.19. Trade Relations. There exists no actual or, to Borrowers’ knowledge, threatened termination, limitation or modification of any business relationship between any Borrower or Subsidiary and any customer or supplier, or any group of customers or suppliers, who individually or in the aggregate are material to the business of such Borrower or Subsidiary. To Borrowers’ knowledge, there exists no condition or circumstance that could reasonably be expected to materially impair the ability of any Borrower or Subsidiary to conduct its business at any time hereafter in substantially the same manner as conducted on the Closing Date.

9.1.20. Labor Relations. Except as set forth on **Schedule 9.1.20**, no Borrower or Subsidiary is party to or bound by any collective bargaining agreement, management agreement or consulting agreement. There are no material grievances, disputes or controversies with any union or other organization of such Borrower’s or Subsidiary’s employees, or, to Borrowers’ knowledge, any asserted or threatened strikes, work stoppages or demands for collective bargaining.

9.1.21. Payable Practices. No Borrower or Subsidiary has made any material change in its historical accounts payable practices from those in effect on the Closing Date.

9.2. Complete Disclosure. No Loan Document contains any untrue statement of a material fact, nor fails to disclose any material fact necessary to make the statements contained therein not materially misleading. There is no fact or circumstance that Borrowers have failed to disclose to Lender in writing that could reasonably be expected to have a Material Adverse Effect.

SECTION 10. COVENANTS AND CONTINUING AGREEMENTS

10.1. Affirmative Covenants. As long as any Commitment or Obligations are outstanding, each Borrower shall, and shall cause each Subsidiary to:

10.1.1. Inspections; Appraisals.

(a) Permit Lender, at its sole cost and expense, unless an Event of Default exists, to visit and inspect any Borrower’s or Subsidiary’s Properties during reasonable hours and upon reasonable prior notice to Borrowers, and inspect, audit and make extracts from any Borrower’s records, and discuss with its officers and employees, agents, advisors and independent accountants such Borrower’s, Subsidiaries’ and their respective Affiliates’ business, financial condition, assets, and results of operations. Each Borrower acknowledges that all inspections, appraisals and reports are prepared by Lender for its purposes, and no Borrower shall be entitled to rely upon them.

(b) Reimburse Lender for all its reasonable charges, costs and expenses in connection with (i) examinations of Borrowers' books and records or any other financial or Collateral matters as it deems appropriate, up two (2) times per Loan Year, (ii) appraisals of Inventory, up to (x) one (1) time per Loan Year if no Increased Appraisal Trigger Period occurs during such Loan Year and (y) two (2) times per Loan Year if an Increased Appraisal Trigger Period occurs during such Loan Year, and (iii) appraisals of Equipment and Real Estate delivered on or prior to the Closing Date; provided, however, that if an examination or appraisal is initiated during the continuance of an Event of Default, all reasonable charges, costs and expenses relating thereto shall be reimbursed by Borrowers without regard to such limits. Subject to the limitations set forth herein, Borrowers shall pay Lender's then standard charges for examination activities, including charges for its internal examination and appraisal groups, as well as the charges of any third party used for such purposes. No Borrowing Base calculation shall include Collateral acquired in a Permitted Acquisition or outside the ordinary course of business until completion of applicable field examinations and appraisals (which shall not be included in the limits provided above) satisfactory to Lender. There shall be no limit to the number of examinations or appraisals conducted by Lender at Lender's cost or while there exists an Event of Default.

10.1.2. Financial and Other Information. Keep adequate records and books of account with respect to its business activities, and furnish to Lender:

(a) as soon as available, and in any event within 90 days after the close of each Fiscal Year, balance sheets as of the end of such Fiscal Year and the related statements of income, cash flow and shareholders equity on a consolidated and consolidating basis for Borrowers and their Subsidiaries, which consolidated statements shall be audited by a firm of independent certified public accountants of recognized standing selected by Borrowers and acceptable to Lender in its reasonable discretion, and shall set forth comparative corresponding figures for the preceding Fiscal Year;

(b) as soon as available, and in any event within 30 days after the end of each month, unaudited balance sheets as of the end of such month and the related statements of income and cash flow for such month and for the portion of the Fiscal Year then elapsed, on consolidated and consolidating basis for Borrowers and its Subsidiaries and Affiliates, setting forth in comparative form corresponding figures for the preceding Fiscal Year and certified by an authorized officer of Borrower Agent as prepared in accordance with GAAP and fairly presenting the financial position and results of operations for such month and period, subject to normal year-end adjustments and the absence of footnotes;

(c) concurrently with delivery of financial statements under clauses (a) and (b) above, or more frequently if requested by Lender while an Event of Default exists, a Compliance Certificate executed by the an authorized officer of Borrower Agent;

(d) concurrently with delivery of financial statements under clause (a) above, copies of all management letters and other material reports submitted to Borrowers by their accountants in connection with such financial statements;

(e) concurrently with delivery of Borrowers' Borrowing Base Reports delivered pursuant to **Section 8.1** above, a listing of Borrowers' trade payables, specifying the trade creditor and balance due, and a detailed trade payable aging, all in form reasonably satisfactory to Lender;

(f) not later than 30 days prior to the end of each Fiscal Year, projections of Borrowers' consolidated balance sheets, results of operations, cash flow and Availability for the next Fiscal Year, covering a time period reasonably acceptable to Lender month by month , and for the next three Fiscal Years, year by year; and

(g) such other reports and information (financial or otherwise) as Lender may reasonably request from time to time in connection with any Collateral or any Borrower's, Subsidiary's, or other Obligor's financial condition or business.

10.1.3. Notices. Notify Lender in writing promptly of any of the following that affects an Obligor: (a) the threat or commencement of any lawsuit, proceeding or investigation, if an adverse determination could have a Material Adverse Effect; (b) any pending or threatened labor dispute, strike or walkout; (c) any default under or termination of a material contract, License or other agreement; (d) the existence of any Event of Default; (e) any judgment in an amount exceeding \$100,000; (f) any violation or asserted violation of any applicable law (including ERISA, FLSA, or any federal, state or local environmental laws), if an adverse determination could have a Material Adverse Effect; (g) any environmental contamination or pollution by an Obligor or on any Property owned, leased or occupied by such Obligor; or receipt of any notice of violation of any environmental law; (h) the occurrence of any ERISA Event; (i) the discharge of or any withdrawal or resignation by any Obligor's independent accountants; (j) any opening of a new office or place of business, at least 30 days prior to such opening; or (k) the occurrence or declaration of a default or other notice received by any Obligor from any holder of the Scheduled Debt.

10.1.4. Landlord and Storage Agreements. Upon request, provide Lender with copies of all existing agreements, and promptly after execution thereof provide Lender with copies of all future agreements, between any Borrower and any landlord, warehouseman, processor, shipper, bailee or other Person that owns any premises at which any Collateral may be kept or that otherwise may possess or handle any Collateral.

10.1.5. Compliance with Laws. Comply with all laws applicable to the conduct of Borrowers' business, including ERISA, all environmental laws, FLSA, Anti-Terrorism Laws, and laws regarding collection and payment of taxes, and maintain all governmental approvals necessary to the ownership of its Properties or conduct of its business, unless failure to comply (other than failure to comply with Anti-Terrorism Laws) or maintain could not reasonably be expected to have a Material Adverse Effect. If any environmental contamination or pollution occurs in violation of applicable environmental laws at or on any Properties of any Borrower or Subsidiary, it shall act promptly and diligently to investigate and report to Lender and all appropriate governmental authorities the extent of, and to make appropriate remedial action to eliminate, such contamination or pollution, whether or not directed to do so by any governmental authority.

10.1.6. Taxes. Pay and discharge all taxes prior to the date on which they become delinquent or penalties attach, except in the event such taxes are being Properly Contested.

10.1.7. Insurance. In addition to the insurance required hereunder with respect to Collateral, maintain insurance with insurers reasonably satisfactory to Lender, (a) with respect to the Properties and business of Borrowers and Subsidiaries of such type, in such amounts, and with such coverages and deductibles as are customary for companies similarly situated; and (b) business interruption insurance in an amount not less than the amount of insurance maintained by Borrowers as of the Closing Date, with deductibles and subject to endorsements and assignments reasonably satisfactory to Lender.

10.1.8. Future Subsidiaries. Promptly notify Lender upon any Person becoming a Subsidiary and cause it to guaranty the Obligations in a manner reasonably satisfactory to Lender, and to execute and deliver such documents, joinders, instruments and agreements and to take such other actions as Lender shall reasonably require to evidence and perfect a Lien in favor of Lender on all assets of such Person.

10.2. Negative Covenants. As long as any Commitment or Obligations are outstanding, each Borrower shall not, and shall cause each Subsidiary not to, without Lender's prior written consent:

10.2.1. Debt. Create, incur, guarantee or suffer to exist any Debt, or contingent liabilities except the following (collectively, "Permitted Debt"):

- (a) the Obligations;
- (b) trade payables incurred in the ordinary course of business on normal trade credit;
- (c) liabilities and leases in existence on the Closing Date and disclosed in writing to Lender on **Schedule 10.2.1**;
- (d) Bank Product Debt incurred in the ordinary course of business;
- (e) Permitted Contingent Obligations;
- (f) Permitted Purchase Money Debt; and
- (g) the Scheduled Debt.

10.2.2. Permitted Liens. Create or suffer to exist any Lien upon any of its Property, except the following (collectively, "Permitted Liens"):

- (a) Liens in favor of Lender;
- (b) Purchase Money Liens securing Permitted Purchase Money Debt;
- (c) Liens for taxes not yet due or being Properly Contested;
- (d) statutory Liens (other than Liens for Taxes or imposed under ERISA) arising in the ordinary course of business, but only if (i) payment of the obligations secured thereby is not yet due or is being Properly Contested, and (ii) such Liens do not materially impair the value or use of the Property or materially impair operation of the business of any Borrower or Subsidiary;
- (e) Liens incurred or deposits made in the ordinary course of business to secure the performance of government tenders, bids, contracts, statutory obligations and other similar obligations, as long as such Liens are at all times junior to Lender's Liens and are required or provided by law;
- (f) Liens arising in the ordinary course of business that are subject to Lien Waivers;
- (g) Liens arising by virtue of a judgment or judicial order against any Borrower or Subsidiary, or any Property of a Borrower or Subsidiary, as long as such Liens are (i) in existence for less than 20 consecutive days or being Properly Contested, and (ii) at all times junior to Lender's Liens;
- (h) easements, rights-of-way, restrictions, covenants or other agreements of record, and other similar charges or encumbrances on Real Estate, that do not secure any monetary obligation and do not interfere with the ordinary course of business;
- (i) normal and customary rights of setoff upon deposits in favor of depository institutions, and Liens of a collecting bank on Payment Items in the course of collection; and
- (j) existing Liens shown on **Schedule 10.2.2**; and

(k) liens and encumbrances of record existing on the Closing Date shown in any mortgage title policy covering Lender's interest under the Mortgage or any title search report delivered to Lender for any property encumbered by a negative pledge which Lender deems acceptable in its discretion.

10.2.3. [Reserved].

10.2.4. Distributions

and Stock Repurchase. Declare or make payment of any distributions, interest or dividend on the stock, Equity Interest or other ownership interests of any Borrower or any Subsidiary or repurchase any stock or other ownership interests from any holder of such ownership interests, except:

(a) payments in respect of Tax Distributions so long as, prior to and after giving effect to such Tax Distributions, no Default or Event of Default exists or is caused thereby and

(b) payments for other distributions so long prior to and after giving effect to such payment, (i) no Default or Event of Default exists or is caused thereby; (ii) on a pro forma basis, both (x) Average Daily Availability for the 60 day period immediately preceding such payment and (y) Availability immediately after giving effect to such payment, is not less than the lesser of (a) \$4,000,000 and (b) 40% of the Borrowing Base, and (iii) the Fixed Charge Coverage Ratio for the twelve month period preceding the month in which the proposed payment is to be made, is not less than 1.10 : 1.0, which shall be calculated on a pro forma basis as if such payment was made during such twelve month period.

10.2.5. Acquisitions and Investments. Enter into any Acquisition or Investment, except:

(a) Investments in Subsidiaries to the extent existing on the Closing Date;

(b) cash equivalents that are subject to Lender's Lien and control, pursuant to documentation in form and substance satisfactory to Lender;

(c) loans and advances permitted under **Section 10.2.7**;

(d) Permitted Acquisitions; and

(e) other Investments (other than Acquisitions) so long as, prior to and after giving effect to such Investment, (i) no Default or Event of Default exists or is caused thereby, (ii) on a pro forma basis, both (x) Average Daily Availability for the 60 day period immediately preceding such Investment and (y) Availability immediately after giving effect to such payment, is not less than the lesser of (a) \$4,000,000 and (b) 40% of the Borrowing Base, and (iii) the Fixed Charge Coverage Ratio for the twelve month period preceding the month in which the proposed payment is to be made, is not less than 1.10 : 1.0, which shall be calculated on a pro forma basis as if such payment was made during such twelve month period.

10.2.6. Disposition of Business or Assets. Make any Asset Disposition, except a Permitted Asset Disposition, a disposition of Equipment under **Section 8.4.2**, or a transfer of Property by a Subsidiary or Obligor to a Borrower.

10.2.7. Loans. Make any loans or other advances of money to any Person, except (a) advances to an officer or employee for salary, travel expenses, commissions and similar items in the ordinary course of business; (b) prepaid expenses and extensions of trade credit made in the ordinary course of business; (c) deposits with financial institutions permitted hereunder; and (d) as long as no Default or Event of Default exists, intercompany loans by a Borrower to another Borrower.

10.2.8. Restrictions on Payment of Debt. Make any payments (whether voluntary or mandatory, or a prepayment, redemption, retirement, defeasance or acquisition) with respect to any (a) Scheduled Debt, other than regularly scheduled payments of interest in respect of the Scheduled Debt in accordance with the agreements evidencing such Scheduled Debt as in effect on the Closing Date and disclosed in writing to Lender (or as amended thereafter with the consent of Lender), it being acknowledged and agreed that Borrower hereby authorizes Lender to pay any amounts owing to the holders of the Scheduled Debt by deducting such amounts from the Scheduled Debt Reserve and paying such amounts directly to such holders; and (b) Borrowed Money (other than the Obligations, the Scheduled Debt, which Scheduled Debt shall be subject to the foregoing clause (a), and Subordinated Debt subject to a subordination agreement) prior to its due date under the agreements evidencing such Debt as in effect on the Closing Date and disclosed in writing to Lender (or as amended thereafter with the consent of Lender).

10.2.9. Fundamental Changes. Change its name or conduct business under any fictitious name; change its tax, charter or other organizational identification number; change its form or state of organization; liquidate, wind up its affairs or dissolve itself; or merge, combine or consolidate with any Person; except for (a) mergers or consolidations of a wholly-owned Subsidiary with another wholly-owned Subsidiary or into a Borrower; or (b) Permitted Acquisitions.

10.2.10. Subsidiaries. Form or acquire any subsidiary after the Closing Date except in accordance with **Sections 10.1.9, 10.2.5 and 10.2.9.**

10.2.11. Organic Documents. Amend, modify or otherwise change any of its organizational documents or agreements as in effect on the Closing Date, in each case in any manner adverse in any material respect to Lender.

10.2.12. Tax Consolidation. File or consent to the filing of any consolidated income tax return with any Person other than Borrowers and Subsidiaries.

10.2.13. Accounting Changes. Make any material change in accounting treatment or reporting practices, except as required by GAAP and in accordance with **Section 1.2**; or change its Fiscal Year.

10.2.14. Restrictive Agreements. Be or become a party to any agreement that conditions or restricts the right of Borrowers or any Subsidiaries to incur or repay the Obligations or to grant Liens on the assets of Borrowers, except (a) in effect on the Closing Date and disclosed in writing to Lender on **Schedule 9.1.15**; (b) relating to secured Debt permitted hereunder, as long as the restrictions apply only to collateral for such Debt; and (c) constituting customary restrictions on assignment in leases and other contracts.

10.2.15. Hedging Agreements. Enter into any Hedging Agreement, except to hedge risks arising in the ordinary course of business and not for speculative purposes.

10.2.16. Conduct of Business. Engage in any business, other than its business as conducted on the Closing Date and any activities incidental thereto.

10.2.17. Affiliate Transactions. Enter into or be party to any transaction with an Affiliate or a Subsidiary except (a) transactions expressly permitted by the Loan Documents; (b) payment of reasonable compensation, benefits and employment incentives to officers and employees for services actually rendered, and payment of customary directors' fees and indemnities; and (c) transactions with Affiliates consummated prior to the Closing Date, as shown on **Schedule 10.2.17.**

10.2.18. Plans. Become party to any ERISA Plan, other than any in existence on the Closing Date and disclosed in writing to Lender.

10.2.19. **Change of Management.** Make any change in Borrowers' executive or management personnel as existing on the Closing Date that could have a Material Adverse Effect.

10.2.20. **Amendments to Scheduled Debt.** Amend, supplement or otherwise modify any other document, instrument or agreement relating to any Scheduled Debt, if such modification (a) increases the principal balance of such Debt, or increases any required payment of principal or interest; (b) accelerates the date on which any installment of principal or any interest is due, or adds any additional redemption, put or prepayment provisions; (c) shortens the final maturity date or otherwise accelerates amortization; (d) increases the interest rate; (e) increases or adds any fees or charges; or (f) modifies any covenant in a material manner or adds any representation, covenant or default that is more onerous or restrictive in any material respect for any Borrower or Subsidiary, or that is otherwise materially adverse to any Borrower, any Subsidiary or Lender.

10.3. Financial Covenants - Fixed Charge Coverage Ratio. Borrowers shall maintain a Fixed Charge Coverage Ratio of at least 1.0 to 1.0, determined as of the last day of each month for the trailing twelve month period then ended. Compliance with the foregoing shall be evidenced by delivery of the Compliance Certificate required under **Section 10.1.2(c)**.

10.4. Post Closing. Borrowers hereby agree to take the following actions within the time periods set forth below:

(a) Borrowers shall use commercially reasonable efforts to, within sixty (60) days after the Closing Date (as such date may be extended by Lender in its reasonable discretion, which extension may be granted by electronic mail), cause its landlord in respect of its leased locations to deliver to Lender a Lien Waiver, in form and substance satisfactory to Lender.

(b) Borrowers shall, within three (3) Business Days after the Closing Date, (i) remit to Multi-State Title Agency, LLC ("**MST**") all title and recording fees payable to MST in respect of the Mortgages upon the Real Estate located at (A) 7200 Grade Lane, Louisville, KY 40213, (B) 7210 Grade Lane, Louisville, KY 40213, and (C) 7124 Grade Lane, Louisville, KY 40213 and (ii) cause such Mortgages to be duly recorded in each office where such recording is required.

SECTION 11. EVENTS OF DEFAULT; REMEDIES ON DEFAULT

11.1. Events of Default. Each of the following shall be an "Event of Default:"

(a) Any Borrower fails to pay (i) any principal in respect of any Loan or any Letter of Credit reimbursement amount when due (whether at stated maturity, on demand, upon acceleration or otherwise) or (ii) any interest on any Loan or any fee or other amount (other than an amount referred to in clause (i) of this **Section 11.1(a)**) payable hereunder or under any other Loan Document within two (2) Business Days after any such interest or other amount becomes due in accordance with the terms hereof or thereof;

(b) Any representation, warranty or other written statement of Borrowers made in connection with any Loan Documents or transactions contemplated thereby is incorrect or misleading in any material respect when given;

(c) a Borrower (x) breaches or fails to perform any covenant contained in **Section 7.2, 7.4, 7.6, 8.1, 8.2, 8.6.2, 10.1.1, 10.1.2, 10.2** or **10.3** or (y) a Borrower breaches or fails to perform any other covenant contained in this Agreement or any Loan Documents, and such breach or failure is not cured within twenty (20) days after a senior officer of such Borrower has knowledge thereof or receives notice thereof from Lender, whichever is sooner; provided, however, that such notice and opportunity to cure shall not apply if the breach or failure to perform is not capable of being cured within such period or is a willful breach by Borrower;

- (d) Any breach or default of Borrowers occurs under (i) any Hedging Agreement; or (ii) any License, instrument or agreement to which it is a party or by which it or any of its Properties is bound;
- (e) Any judgment or order for the payment of money is entered against Borrowers in an amount that exceeds, individually or cumulatively with all unsatisfied judgments or orders against all Borrowers, \$250,000 (net of insurance coverage therefor that has not been denied by the insurer), unless a stay of enforcement of such judgment or order is in effect;
- (f) A loss, theft, damage or destruction occurs with respect to any Collateral if the amount not covered by insurance exceeds \$250,000;
- (g) Any Borrower is enjoined, restrained or in any way prevented by any governmental authority from conducting any material part of its business; any Borrower suffers the loss, revocation or termination of any material license, permit, lease or agreement necessary to its business; there is a cessation of any material part of such Borrower's business for a material period of time; any material Collateral or Property of any Borrower is taken or impaired through condemnation; any Borrower agrees to or commences any liquidation, dissolution or winding up of its affairs; or Borrowers are not solvent;
- (h) A voluntary insolvency or bankruptcy proceeding is commenced by any Borrower; any Borrower makes an offer of settlement, extension or composition to its unsecured creditors generally; a trustee is appointed to take possession of any substantial Property of or to operate any of the business of any Borrower; or an involuntary insolvency or bankruptcy proceeding is commenced against any Borrower and any Borrower consents to institution of the proceeding, the petition commencing the proceeding is not timely contested by such Borrower, the petition is not dismissed or vacated within thirty (30) days after filing thereof, or an order for relief is entered in the proceeding;
- (i) A violation of ERISA occurs that has resulted or could reasonably be expected to result in liability of Borrowers to a Plan or PBGC, or that constitutes grounds for appointment of a trustee for or termination by the PBGC of any Plan; or Borrowers fail to pay when due any installment payment with respect to its withdrawal liability under Section 4201 of ERISA under a Multiemployer Plan;
- (j) any Borrower or any of its senior officers is criminally indicted or convicted for (i) a felony committed in the conduct of such Borrower's business, or (ii) violating any state or federal law (including the Controlled Substances Act, Money Laundering Control Act of 1986 and Illegal Exportation of War Materials Act) that could lead to forfeiture of any material Property or any Collateral;
- (k) A Change of Control occurs without the prior written consent of Lender; or
- (l) or any event occurs or condition exists that has a Material Adverse Effect.
- 11.2. Remedies upon Default.** If an Event of Default described in **Section 11.1(h)** occurs, then to the extent permitted by applicable law, all Obligations shall become automatically due and payable and all Commitments shall terminate, without any action by Lender or notice of any kind. In addition, or if any other Event of Default exists, Lender may in its discretion do any one or more of the following from time to time:
- (a) declare any Obligations immediately due and payable, whereupon they shall be due and payable without diligence, presentment, demand, protest or notice of any kind, all of which are hereby waived by Borrowers to the fullest extent permitted by law;
- (b) terminate, reduce or condition any Commitment, or adjust the Borrowing Base;
- (c) require Borrower to Cash Collateralize all LC Obligations, Bank Product Debt and other Obligations that are contingent or not yet due and payable, and if Borrower fails to deposit such Cash Collateral, Lender may advance the required Cash Collateral as Revolver Loans; and

(d) exercise any other rights or remedies afforded under any agreement, by law, at equity or otherwise, including the rights and remedies of a secured party under the UCC. Such rights and remedies include the rights to (i) take possession of any Collateral; (ii) require Borrowers to assemble Collateral, at Borrowers' expense, and make it available to Lender at a place designated by Lender; (iii) enter any premises where Collateral is located and store Collateral on such premises until sold (and if the premises are owned or leased by Borrowers, Borrowers agree not to charge for such storage); and (iv) sell or otherwise dispose of any Collateral in its then condition, or after any further manufacturing or processing thereof, at public or private sale, with such notice as may be required by applicable law, in lots or in bulk, at such locations, all as Lender, in its discretion, deems advisable. Borrowers agree that 10 days notice of any proposed sale or other disposition of Collateral by Lender shall be reasonable, and that any sale conducted on the internet or to a licensor of intellectual property shall be commercially reasonable. Lender may conduct sales on Borrowers' premises, without charge, and any sales may be adjourned from time to time in accordance with applicable law. Lender shall have the right to sell, lease or otherwise dispose of any Collateral for cash, credit or any combination thereof, and Lender may purchase any Collateral at public or, if permitted by law, private sale and, in lieu of actual payment of the purchase price, may set off the amount of such price against the Obligations.

11.3. License. Lender is hereby granted an irrevocable, non-exclusive license or other right to use, license or sublicense (without payment of royalty or other compensation to any Person) any or all intellectual property of Borrowers, 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 Borrower's rights and interests under intellectual property shall inure to Lender's benefit.

11.4. Setoff. At any time an Event of Default exists, Lender and its Affiliates are authorized, to the fullest extent permitted by applicable law, to set off and apply any and all deposits (general or special, time or demand, provisional or final, in whatever currency) at any time held and other obligations at any time owing by Lender or such Affiliate to or for the credit or the account of Borrowers against its Obligations, whether or not Lender or such Affiliate shall have made any demand under this Agreement or any other Loan Document and although such Obligations may be contingent or unmatured or are owed to a branch or office of Lender or such Affiliate different from the branch or office holding such deposit or obligated on such indebtedness. The rights of Lender and each such Affiliate under this Section are in addition to other rights and remedies (including other rights of setoff) that such Person may have.

11.5. Remedies Cumulative; No Waiver.

11.5.1. Cumulative Rights. All agreements, warranties, guaranties, indemnities and other undertakings of Borrowers under the Loan Documents are cumulative and not in derogation of each other. The rights and remedies of Lender under the Loan Documents are cumulative, may be exercised at any time and from time to time, concurrently or in any order, and are not exclusive of any other rights or remedies available by agreement, by law, at equity or otherwise. All such rights and remedies shall continue in full force and effect until Full Payment of all Obligations.

11.5.2. Waivers. No waiver or course of dealing shall be established by (a) the failure or delay of Lender to require strict performance by Borrowers under any Loan Document, or to exercise any rights or remedies with respect to Collateral or otherwise; (b) the making of any Loan or issuance of any Letter of Credit during a Default, Event of Default or other failure to satisfy any conditions precedent; or (c) acceptance by Lender of any payment or performance by Borrowers under any Loan Documents in a manner other than that specified therein. Any failure to satisfy a financial covenant on a measurement date shall not be cured or remedied by satisfaction of such covenant on a subsequent date.

SECTION 12. MISCELLANEOUS

12.1. Amendments and Waivers.

12.1.1. Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of Borrowers, Lender, and their respective successors and assigns, except that Borrowers shall not have the right to assign its rights or delegate its obligations under any Loan Documents.

12.1.2. Amendments and Other Modifications. No modification of any Loan Document, including any extension or amendment of a Loan Document or any waiver of a continuing Event of Default, shall be effective without the prior written agreement of Lender and Borrowers; provided, however, that only the consent of the parties to a Bank Product agreement shall be required for any modification of such agreement. Any waiver or consent granted by Lender shall be effective only if in writing, and only for the matter specified.

12.2. Indemnity. EACH BORROWER SHALL INDEMNIFY AND HOLD HARMLESS LENDER, EACH OTHER SECURED PARTY AND THEIR OFFICERS, DIRECTORS, EMPLOYEES, AFFILIATES, AGENTS AND ATTORNEYS (THE “INDEMNITEES”) AGAINST ANY CLAIMS THAT MAY BE INCURRED BY OR ASSERTED AGAINST ANY INDEMNITEE, INCLUDING CLAIMS ASSERTED BY BORROWERS OR ANY OTHER PERSON OR ARISING FROM THE NEGLIGENCE OF AN INDEMNITEE. In no event shall any party to a Loan Document have any obligation thereunder to indemnify or hold harmless an Indemnitee with respect to a Claim that is determined in a final, non-appealable judgment by a court of competent jurisdiction to result from the gross negligence, bad faith, or willful misconduct of such Indemnitee.

12.3. Notices and Communications.

12.3.1. Notice Address. All notices and other communications by or to a party hereto shall be in writing and shall be given to Borrowers at Borrower Agent’s address shown on the signature pages hereof, and to any other Person at its address shown on the signature pages hereof, or at such other address as a party may hereafter specify by notice in accordance with this **Section 12.3.** Each communication shall be effective only (a) if given by facsimile transmission, when transmitted to the applicable facsimile number, if confirmation of receipt is received; (b) if given by mail, three Business Days after deposit in the U.S. mail, with first-class postage pre-paid, addressed to the applicable address; (c) if given by personal delivery, when duly delivered to the notice address with receipt acknowledged. Notwithstanding the foregoing, no notice to Lender shall be effective until actually received by the individual to whose attention at Lender such notice is required to be sent; or (d) if given by overnight commercial service, upon receipt as evidenced by written confirmation of receipt from the overnight service. Any written communication that is not sent in conformity with the foregoing provisions shall nevertheless be effective on the date actually received by the noticed party. Any notice received by Borrower Agent shall be deemed received by all Borrowers.

12.3.2. Communications. Electronic communications (including e-mail, messaging and websites) may be used only in a manner acceptable to Lender and only for routine communications, such as delivery of financial statements, Borrowing Base Reports and other information required by **Section 10.1.2**, and administrative matters. Lender make no assurances as to the privacy and security of electronic communications. E-mail and voice mail shall not be effective notices under the Loan Documents.

12.3.3. **Platform.** Borrowing Base information, reports, financial statements, materials and other information shall be delivered by Borrowers pursuant to procedures approved by Lender, including electronic delivery (if possible) upon request by Lender to an electronic system maintained by it ("**Platform**"). Borrowers shall notify Lender of each posting of information on the Platform, and information shall be deemed received by Lender only upon its receipt of such notice. The Platform is provided "as is" and "as available." Lender does not warrant the adequacy or functioning of the Platform, and expressly disclaims liability for any issues involving the Platform. NO WARRANTY OF ANY KIND, EXPRESS, IMPLIED OR STATUTORY, INCLUDING ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT OF THIRD PARTY RIGHTS, OR FREEDOM FROM VIRUSES OR OTHER CODE DEFECTS, IS MADE BY LENDER WITH RESPECT TO THE PLATFORM. No Indemnitee shall have any liability to Borrowers or any other Person for losses, claims, damages, liabilities or expenses of any kind (whether in tort, contract or otherwise) relating to use by any Person of the Platform, including any unintended recipient, nor for delivery of any information via the Platform, internet, e-mail, or any other electronic platform or messaging system.

12.3.4. **Non-Conforming Communications.** Lender may rely upon any communications purportedly given by or on behalf of any Borrower even if they were not made in a manner specified herein, were incomplete or were not confirmed, or if the terms thereof, as understood by the recipient, varied from a later confirmation. Each Borrower shall indemnify and hold harmless each Indemnitee from any liabilities, losses, costs and expenses arising from any electronic or telephonic communication purportedly given by or on behalf of a Borrower, except in connection with any Indemnitee's gross negligence or willful misconduct.

12.4. Performance of Borrowers' Obligations. Lender may, in its discretion at any time and from time to time, at Borrowers' expense, pay any amount or do any act required of Borrowers under any Loan Documents or otherwise lawfully and reasonably requested by Lender to (a) enforce any Loan Documents or collect any Obligations; (b) protect, insure, maintain or realize upon any Collateral; or (c) defend or maintain the validity or priority of Lender's Liens in any Collateral, including any payment of a Royalty, judgment, insurance premium, warehouse charge, finishing or processing charge, or landlord claim, or any discharge of a Lien. All reasonable payments, costs, fees and expenses actually incurred by Lender under this Section shall be reimbursed by Borrowers, **on demand**, with interest from the date incurred until paid in full, at the Default Rate. Any payment made or action taken by Lender under this Section shall be without prejudice to any right to assert an Event of Default or to exercise any other rights or remedies under the Loan Documents.

12.5. Credit Inquiries. Lender may (but shall have no obligation) to respond to usual and customary credit inquiries from third parties concerning Borrowers.

12.6. Severability. Wherever possible, each provision of the Loan Documents shall be interpreted in such manner as to be valid under applicable law. If any provision is found to be invalid under applicable law, it shall be ineffective only to the extent of such invalidity and the remaining provisions of the Loan Documents shall remain in full force and effect.

12.7. Cumulative Effect; Conflict of Terms. The provisions of the Loan Documents are cumulative. The parties acknowledge that the Loan Documents may use several limitations or measurements to regulate similar matters, and they agree that these are cumulative and that each must be performed as provided. Except as otherwise provided in another Loan Document (by specific reference to the applicable provision of this Agreement), if any provision contained herein is in direct conflict with any provision in another Loan Document, the provision herein shall govern and control.

12.8. Counterparts; Execution. Any Loan Document may be executed in counterparts, each of which shall constitute an original, but all of which when taken together shall constitute a single contract. This Agreement shall become effective when Lender has received counterparts bearing the signatures of all parties hereto. Lender may (but shall have no obligation to) accept any signature, contract formation or record-keeping through electronic means, which shall have the same legal validity and enforceability as manual or paper-based methods, to the fullest extent permitted by applicable law.

12.9. Entire Agreement. Time is of the essence with respect to all Loan Documents and Obligations. The Loan Documents constitute the entire agreement, and supersede all prior understandings and agreements, among the parties relating to the subject matter thereof.

12.10. No Control; No Fiduciary Responsibility. Nothing in any Loan Document and no action of Lender pursuant to any Loan Document shall be deemed to constitute control of Borrowers by Lender, and Lender has no fiduciary, agency or similar duty of any kind to Borrowers. In connection with all aspects of each transaction contemplated by any Loan Document, Borrowers acknowledge and agree that (i) this credit facility and all related services by Lender or its Affiliates are arm's-length commercial transactions between Borrowers and such Person; and (ii) Borrowers are capable of evaluating, and understand and accept, the terms, risks and conditions of the transactions contemplated by the Loan Documents.

12.11. Waiver of Confidentiality. Borrowers authorize Lender to discuss Borrowers' financial affairs and business operations with any accountants, auditors, business consultants, or other professional advisors employed by Borrowers, and Borrowers authorize such parties to disclose to Lender such financial and business information or reports (including management letters) concerning Borrowers as Lender may request.

12.12. Governing Law

UNLESS EXPRESSLY PROVIDED IN ANY LOAN DOCUMENT, THIS AGREEMENT, THE OTHER LOAN DOCUMENTS AND ALL CLAIMS SHALL BE GOVERNED BY THE LAWS OF THE STATE OF NEW YORK, WITHOUT GIVING EFFECT TO ANY CONFLICT OF LAW PRINCIPLES EXCEPT FEDERAL LAWS RELATING TO NATIONAL BANKS.

12.13. Consent to Forum.

12.13.1. Forum. EACH BORROWER HEREBY CONSENTS TO THE EXCLUSIVE JURISDICTION OF ANY STATE COURT SITTING IN NEW YORK OR THE UNITED STATES DISTRICT COURT OF THE SOUTHERN DISTRICT OF NEW YORK IN ANY DISPUTE, ACTION, LITIGATION OR OTHER PROCEEDING RELATING IN ANY WAY TO ANY LOAN DOCUMENTS, AND AGREES THAT ANY DISPUTE, ACTION, LITIGATION OR OTHER PROCEEDING SHALL BE BROUGHT BY IT SOLELY IN ANY SUCH COURT. EACH BORROWER IRREVOCABLY AND UNCONDITIONALLY WAIVES ALL CLAIMS, OBJECTIONS AND DEFENSES THAT IT MAY HAVE REGARDING ANY SUCH COURT'S PERSONAL OR SUBJECT MATTER JURISDICTION, VENUE OR INCONVENIENT FORUM. EACH PARTY HERETO IRREVOCABLY AND UNCONDITIONALLY SUBMITS TO THE JURISDICTION OF SUCH COURTS AND CONSENTS TO SERVICE OF PROCESS IN THE MANNER PROVIDED FOR NOTICES IN SECTION 12.3.1. A final judgment in any proceeding of any such court shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or any other manner provided by applicable law.

12.13.2. Other Jurisdictions. Nothing herein shall limit the right of Lender to bring proceedings against Borrowers in any other court, nor limit the right of any party to serve process in any other manner permitted by applicable law. Nothing in this Agreement shall be deemed to preclude enforcement by Lender of any judgment or order obtained in any forum or jurisdiction.

12.14. Waivers by Borrowers. To the fullest extent permitted by applicable law, each Borrower waives (a) the right to trial by jury (which Lender hereby also waives) in any proceeding or dispute of any kind relating in any way to any Loan Documents, Obligations or Collateral; (b) presentment, demand, protest, notice of presentment, default, non-payment, maturity, release, compromise, settlement, extension or renewal of any commercial paper, accounts, documents, instruments, chattel paper and guaranties at any time held by Lender on which a Borrower may in any way be liable, and hereby ratifies anything Lender may do in this regard; (c) notice prior to taking possession or control of any Collateral; (d) any bond or security that might be required by a court prior to allowing Lender to exercise any rights or remedies; (e) the benefit of all valuation, appraisal and exemption laws; (f) any claim against Lender, on any theory of liability, for special, indirect, consequential, exemplary or punitive damages (as opposed to direct or actual damages) in any way relating to any Enforcement Action, Obligations, Loan Documents or transactions relating thereto; and (g) notice of acceptance hereof. Each Borrower acknowledges that the foregoing waivers are a material inducement to Lender entering into this Agreement and that Lender is relying upon the foregoing in its dealings with Borrowers. Each Borrower has reviewed the foregoing waivers and has knowingly and voluntarily waived its jury trial and other rights. In the event of litigation, this Agreement may be filed as a written consent to a trial by the court.

12.15. Patriot Act Notice. Lender hereby notifies Borrowers that pursuant to the Patriot Act, Lender is required to obtain, verify and record information that identifies Borrowers, including its legal name, address, tax ID number and other information that will allow Lender to identify it in accordance with the Patriot Act. Lender will also require information regarding any personal guarantor and may require information regarding Borrowers' management and owners, such as legal name, address, social security number and date of birth. Borrowers shall, promptly upon request, provide all documentation and other information as Lender may request from time to time in order to comply with any obligations under "know your customer," anti-money laundering or other requirements of applicable law.

12.16. NO ORAL AGREEMENT. THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS REPRESENT THE FINAL AGREEMENT BETWEEN THE PARTIES AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS OR SUBSEQUENT ORAL AGREEMENTS BETWEEN THE PARTIES. THERE ARE NO UNWRITTEN AGREEMENTS BETWEEN THE PARTIES.

[Signature Pages Follow]

IN WITNESS WHEREOF, this Agreement has been executed and delivered as of the date set forth above.

LENDER:

BANK OF AMERICA, N.A.

By: /s/ Steven Blumberg

Title: Senior Vice President

Address:

One Bryant Park
New York, New York 10036
Attn: Portfolio Manager

[Signature Page to Loan and Security Agreement]

BORROWERS:

INDUSTRIAL SERVICES OF AMERICA, INC.

By: /s/ Todd L. Phillips
Todd L. Phillips, Chief Executive Officer, President and Chief
Financial Officer

Address:
7100 Grade Lane, Bldg. 1
Louisville, KY 40213
Attn: Todd Phillips

7124 GRADE LANE LLC

BY: INDUSTRIAL SERVICES OF AMERICA, INC.,
Manager

By: /s/ Todd L. Phillips
Todd L. Phillips, Chief Executive Officer, President and Chief
Financial Officer

Address:
7100 Grade Lane, Bldg. 1
Louisville, KY 40213
Attn: Todd Phillips

7200 GRADE LANE LLC

BY: INDUSTRIAL SERVICES OF AMERICA, INC.,
Manager

By: /s/ Todd L. Phillips
Todd L. Phillips, Chief Executive Officer, President and Chief
Financial Officer

Address:
7100 Grade Lane, Bldg. 1
Louisville, KY 40213
Attn: Todd Phillips

[Signature Page to Loan and Security Agreement]

SCHEDULE D-1
to
Loan and Security Agreement

Listing of Scheduled Debt has been omitted. The Registrant hereby undertakes to furnish supplementally the omitted listing upon request by the U.S. Securities and Exchange Commission.

SCHEDULE 8.5
to
Loan and Security Agreement

DEPOSIT ACCOUNTS

<u>Depository Bank</u>	<u>Type of Account</u>	<u>Account Number</u>
Republic Bank & Trust Company	ISA General / Corporate	XXXXXXXXXX
	Grade Lane Retail	XXXXXXXXXX
	Grade Lane Industrial	XXXXXXXXXX
	Campground Road Retail	XXXXXXXXXX
	New Albany Retail	XXXXXXXXXX
	Pick Pull Save	XXXXXXXXXX
	Credit Card Security Account	XXXXXXXXXX
Jackson County Bank	Seymour Retail	XXXXXXXXXX
	Seymour Petty	XXXXXXXXXX

SCHEDULE 8.6.1
to
Loan and Security Agreement

BUSINESS LOCATIONS

1. Each Borrower currently has the following business locations:

Chief Executive Office: 7100 Grade Lane, Bldg. 1, Louisville, KY 40213

Other Locations:

- (1) 3409 Camp Ground Road, Louisville, KY
- (2) 7110 Grade Lane, Louisville, KY
- (3) 1617 State Road 111, New Albany, IN
- (4) 7023-7103 Grade Lane, Louisville, KY
- (5) 7200-7210 Grade Lane, Louisville, KY
- (6) 7124 Grade Lane, Louisville, KY
- (7) 6709 Grade Lane Louisville, KY
- (8) 960 South County Road 900 West North Vernon, IN
- (9) 7020, 7100 Grade Lane, Louisville, KY

2. Each Subsidiary currently has the following business locations:

Chief Executive Office: 7100 Grade Lane, Bldg. 1, Louisville, KY 40213

Other Locations:

- (1) 3409 Camp Ground Road, Louisville, KY
- (2) 7110 Grade Lane, Louisville, KY
- (3) 1617 State Road 111, New Albany, IN
- (4) 7023-7103 Grade Lane, Louisville, KY
- (5) 7200-7210 Grade Lane, Louisville, KY
- (6) 7124 Grade Lane, Louisville, KY
- (7) 6709 Grade Lane Louisville, KY
- (8) 960 South County Road 900 West North Vernon, IN
- (9) 7020, 7100 Grade Lane, Louisville, KY

3. In the five years preceding the Closing Date, Borrowers and Subsidiaries have had the following business locations in addition to those set forth above:

- (1) 7017 Grade Lane, Louisville, KY
- (2) 1565 E. 4th Street, Seymour, IN

4. The following bailees, warehouseman, similar parties and consignees hold Inventory of a Borrowers or Subsidiary: None.
-

SCHEDULE 9.1.4
to
Loan and Security Agreement

NAMES AND CAPITAL STRUCTURE

1. The corporate names, jurisdictions of incorporation, and authorized and issued Equity Interests of each Borrower and Subsidiary are as follows:

<u>Name</u>	<u>Jurisdiction</u>	<u>Number and Class of Authorized Shares</u>	<u>Number and Class of Issued Shares</u>
Industrial Services of America, Inc.	Florida	Common Voting Stock – 20,000,000 Non-Voting Preferred Stock – 200,000	Common Voting Stock – 8,107,865 (As of August 6, 2018)
ISA Indiana, Inc.	Indiana	Common Stock – 1,000	Common Stock – 1,000
ISA Logistics LLC	Kentucky	N/A	N/A
ISA Real Estate, LLC	Kentucky	N/A	N/A
ISA Indiana Real Estate, LLC	Kentucky	N/A	N/A
7021 Grade Lane LLC	Kentucky	N/A	N/A
7124 Grade Lane LLC	Kentucky	N/A	N/A
7200 Grade Lane LLC	Kentucky	N/A	N/A

2. The record holders of Equity Interests of each Borrower (other than ISA) and Subsidiary are as follows:

<u>Name</u>	<u>Class of Stock</u>	<u>Number of Shares/Membership Interests</u>	<u>Record Owner</u>
ISA Indiana, Inc.	Common Stock	1,000	Industrial Services of America, Inc.
ISA Logistics LLC	N/A	100%	Industrial Services of America, Inc.
ISA Real Estate, LLC	N/A	100%	Industrial Services of America, Inc.
ISA Indiana Real Estate, LLC	N/A	100%	Industrial Services of America, Inc.
7021 Grade Lane LLC	N/A	100%	Industrial Services of America, Inc.
7124 Grade Lane LLC	N/A	100%	Industrial Services of America, Inc.
7200 Grade Lane LLC	N/A	100%	Industrial Services of America, Inc.

3. All agreements binding on holders of Equity Interests of Borrowers and Subsidiaries with respect to such interests are as follows: None.
4. In the five years preceding the Closing Date, no Borrower or Subsidiary has acquired any substantial assets from any other Person nor been the surviving entity in a merger or combination, except: None.

SCHEDULE 9.1.11
to
Loan and Security Agreement

PATENTS, TRADEMARKS, COPYRIGHTS AND LICENSES

1. Borrowers' and Subsidiaries' patents: None.
 2. Borrowers' and Subsidiaries' trademarks: None.
 3. Borrowers' and Subsidiaries' copyrights: None.
 4. Borrowers' and Subsidiaries' licenses (other than routine business licenses, authorizing them to transact business in local jurisdictions): None.
-

SCHEDULE 9.1.14
to
Loan and Security Agreement

ENVIRONMENTAL MATTERS

ISA is negotiating a revised permit with the Kentucky Division of Water (“DOW”) for storm water runoff. On September 24, 2018, the Kentucky Department for Environmental Protection sent a Notice of Violation to ISA because the current permit includes specifications that ISA has not been able to achieve, as discussed in the Phase 1 dated June 20, 2018. The DOW is working with ISA to identify appropriate specifications for the revised permit.

SCHEDULE 9.1.15
to
Loan and Security Agreement

RESTRICTIVE AGREEMENTS

None.

SCHEDULE 9.1.16
to
Loan and Security Agreement

LITIGATION

1. Proceedings and investigations pending against Borrowers or Subsidiaries:

<u>Case Name</u>	<u>Court</u>	<u>Case Number</u>
RLI Insurance Company v. Industrial Services of America, Inc.	Western District of Kentucky	3:16-CV-00743-RGJ
Wortman v. Industrial Services of America, Inc.	Jefferson Circuit Court; Div. III	C.A. No. 17-CI-00457

2. Threatened proceedings or investigations against Borrowers or Subsidiaries of which any Borrower or Subsidiary is aware: None.
3. Pending Commercial Tort Claim(s) of any Obligor: None.
-

SCHEDULE 9.1.18
to
Loan and Security Agreement

PENSION PLAN DISCLOSURES

None.

SCHEDULE 9.1.20
to
Loan and Security Agreement

LABOR RELATIONS

None.

SCHEDULE 10.2.1
to
Loan and Security Agreement

LIABILITIES AND LEASES

1. Liabilities

Loan Party	Lender	Loan Amount	Description
Industrial Services of America, Inc.	K&R, LLC	\$620,328.00	Unsecured loan
Industrial Services of America, Inc.	7100 Grade Lane LLC	\$883,800.00	Unsecured loan
Industrial Services of America, Inc.	K&R, LLC	\$81,000.00	Secured loan
Industrial Services of America, Inc.	K&R, LLC	\$48,000.00	Secured loan

2. Leases

Loan Party	Lessor	Description of Leased Property	Effective Date, Term and Rent
Industrial Services of America, Inc.	7100 Grade Lane LLC	7100, 7020 Grade Lane, Louisville, Kentucky	October 1, 2017 7 year term with option to extend for two additional consecutive terms of 5 years \$37,500.00 per month for the first five years; for each following one-year period, annual rent increases the lesser of (a) the percentage change in the CPI over the preceding 12 months or (b) 2% of the previous year's annual rent
Industrial Services of America, Inc.	Cohen Brothers Real Estate of Southern Indiana, Inc.	960 South County Road 900 West, North Vernon, Indiana	December 1, 2014 3 years with the option to extend lease for three additional 3-year periods \$8,000.00 per month, increasing each year by \$200.00 per month
Industrial Services of America, Inc.	LK Property Investments, LLC	6709 Grade Lane, Louisville, Kentucky	April 30, 2015 Lease terminates on April 14, 2019 \$3,000.00 per month

Industrial Services of America, Inc. Operating Lease	PNC Equipment Finance, LLC	Specific equipment: 2017 Bobcat Skid Steer S630 and 2017 Bobcat 74" Grapple SN: AHGL13913, AFOH06848	March 3, 2018 5 years (exp. Feb. 2023) \$557.84 per month
Industrial Services of America, Inc. Operating Lease	PNC Equipment Finance, LLC	Specific equipment: 2 used S650 Bobcat SSL and 2 new 74" Industrial Grapples SN: ALJ812931, ALJ813317, AFOH06847, AFOH06866	June 15, 2018 4 years (exp. May 2022) \$577.49 per month
Industrial Services of America, Inc. Capital Lease (Acct #2120)	Somerset Capital Group, Ltd.	Specific equipment: Liebherr cranes: 2014 LH40M, 2014 LH50M, and 2014 LH50M SN: 2014-848696, 2014-825353, 2014-825319	May 1, 2016 5 years \$14,450.21 per month for the first 12 months, followed by monthly payments of \$31,287.33 for remainder of lease term
Industrial Services of America, Inc. Capital Lease (Acct #2122)	Toyota Industries Commercial Finance, Inc.	Specific equipment: 2 new Toyota 8FGU30 SN: 69432, 69448	June 2017 6 years \$1,393.92 per month
Industrial Services of America, Inc. Capital Lease (Acct #2123)	Providence Capital	Specific equipment: Komatsu FG25T-16 Forklift SN: A412570	May 2018 4 years \$577.49 per month (with interest rate of 5.75% per year)
Industrial Services of America, Inc. Capital Lease (Acct #2124)	Providence Capital	Specific equipment: Komatsu FG25T-16 Forklift SN: A42571	June 2018 4 years \$676.76 per month (with interest rate of 5.75% per year)
Industrial Services of America, Inc. Capital Lease (Acct #2125)	Toyota Commercial Finance	Specific equipment: 2 new Toyota models 8FGU30 SN: 72769, 72730	July 2018 76 months (6 yrs. 4 mos.) \$1,509.72 per month

SCHEDULE 10.2.2
to
Loan and Security Agreement

EXISTING LIENS

Loan Party	Secured Party or Mortgagee	Description of Collateral
Industrial Services of America, Inc.	Somerset Capital Group LTD	Specific equipment
Industrial Services of America, Inc.	K&R, LLC	Specific equipment
Industrial Services of America, Inc.	Toyota Industries Commercial Finance, Inc.	Specific equipment
Industrial Services of America, Inc.	Pawnee Leasing Corporation	Specific equipment
Industrial Services of America, Inc.	RECO Equipment, Inc.	Specific equipment
Industrial Services of America, Inc.	Duplicator Sales & Service Inc	Specific equipment
Industrial Services of America, Inc.	PNC Equipment Finance, LLC	Specific equipment

SCHEDULE 10.2.17
to
Loan and Security Agreement

EXISTING AFFILIATE TRANSACTIONS

Loan Party	Affiliate	Description
Industrial Services of America, Inc.	K&R, LLC	Unsecured loan of \$620,328.00
Industrial Services of America, Inc.	7100 Grade Lane LLC	Unsecured loan of \$883,800.00
Industrial Services of America, Inc.	K&R, LLC	Secured loan of \$81,000.00
Industrial Services of America, Inc.	K&R, LLC	Secured loan of \$48,000.00
Industrial Services of America, Inc.	7100 Grade Lane LLC	Lease of real estate property located at 7100 and 7020 Grade Lane, Louisville, Kentucky
Industrial Services of America, Inc.	LK Property Investments, LLC	Lease of real estate property located at 6709 Grade Lane, Louisville, Kentucky
Industrial Services of America, Inc.	Directors	Payment of board and commitment fees to non-employee directors
Industrial Services of America, Inc.	MetalX LLC	Holding of account receivable balances from MetalX related to scrap sales

GENERAL SECURITY AGREEMENT

This GENERAL SECURITY AGREEMENT, dated as of November 9, 2018 as this agreement may be amended, restated, supplemented or otherwise modified from time to time, this “**Security Agreement**”), by and between ISA INDIANA REAL ESTATE LLC, a Kentucky limited liability company (“**ISA IN Real Estate**”), ISA LOGISTICS LLC, a Kentucky limited liability company (“**ISA Logistics**”), ISA INDIANA, INC., an Indiana corporation (“**ISA Indiana**”), ISA REAL ESTATE, LLC, a Kentucky limited liability company (“**ISA Real Estate**”), 7021 GRADE LANE LLC, a Kentucky limited liability company (“**7021 Grade Lane**” and, together with IS IN Real Estate, ISA Logistics, ISA Indiana, and ISA Real Estate, individually and collectively, “**Grantor**”) and BANK OF AMERICA, N.A. (together with its successors and assigns, collectively, “**Lender**”).

WITNESSETH:

WHEREAS, pursuant to that certain Loan and Security Agreement dated as of the date hereof by and among INDUSTRIAL SERVICES OF AMERICA, INC. a Florida corporation (“**ISA**”), 7124 GRADE LANE LLC, a Kentucky limited liability company (“**7124 Grade Lane**”) and 7200 GRADE LANE LLC, a Kentucky limited liability company (“**7200 Grade Lane**”; and together with ISA and 7124 Grade Lane, each individually a “**Borrower**” and collectively, the “**Borrowers**”) and Lender (including all annexes, exhibits and schedules thereto, as from time to time amended, restated, supplemented or otherwise modified, the “**Loan Agreement**”), Lender has agreed to make Loans and issue Letters of Credit on behalf of Borrowers;

WHEREAS, pursuant to that certain Guaranty Agreement, dated as of the date hereof, by Grantor in favor of Lender (as from time to time amended, restated, supplemented or otherwise modified, the “**Guaranty**”), Grantor has guaranteed the obligations of Borrowers under the Loan Agreement and other Loan Documents; and

WHEREAS, in order to induce Lender to enter into the Loan Agreement and the other Loan Documents and to induce Lender to make the Loans and issue Letters of Credit as provided for in the Loan Agreement, Grantor has agreed to grant a continuing Lien on the Collateral (as hereinafter defined) to secure Grantor’s obligations under the Guaranty;

NOW, THEREFORE, in consideration of the premises and mutual covenants herein contained and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. **Defined Terms.** The following terms shall have the following respective meanings:

“**Accounts**” means all of Grantor’s now owned or hereafter acquired or arising accounts, as defined in the UCC, including any rights to payment for the sale or lease of goods or rendition of services, whether or not they have been earned by performance.

“**Chattel Paper**” means all of Grantor’s now owned or hereafter acquired “chattel paper” as such term is defined in the UCC, including electronic chattel paper.

“**Deposit Accounts**” means all “deposit accounts” as such term is defined in the UCC, now or hereafter held in the name of Grantor.

“**Documents**” means all “documents” as such term is defined in the UCC, including bills of lading, warehouse receipts or other documents of title, now owned or hereafter acquired by Grantor.

“**Equipment**” means all of Grantor’s now owned and hereafter acquired machinery, equipment, furniture, furnishings, fixtures, and other tangible personal property (except Inventory), including embedded software, motor vehicles with respect to which a certificate of title has been issued, aircraft, dies, tools, jigs, molds and office equipment, as well as all of such types of property leased by Grantor and all of Grantor’s rights and interests with respect thereto under such leases (including, without limitation, options to purchase); together with all present and future additions and accessions thereto, replacements therefor, component and auxiliary parts and supplies used or to be used in connection therewith, and all substitutes for any of the foregoing, and all manuals, drawings, instructions, warranties and rights with respect thereto; wherever any of the foregoing is located.

“General Intangibles” means all of Grantor’s now owned or hereafter acquired general intangibles, choses in action and causes of action and all other intangible personal property of Grantor of every kind and nature (other than Accounts), including, without limitation, all contract rights, payment intangibles, Proprietary Rights, corporate or other business records, inventions, designs, blueprints, plans, specifications, patents, patent applications, trademarks, service marks, trade names, trade secrets, goodwill, copyrights, computer software, customer lists, registrations, licenses, franchises, tax refund claims, any funds which may become due to Grantor in connection with the termination of any employee benefit plan or any rights thereto and any other amounts payable to Grantor from any employee benefit plan, rights and claims against carriers and shippers, rights to indemnification, business interruption insurance and proceeds thereof, property, casualty or any similar type of insurance and any proceeds thereof, proceeds of insurance covering the lives of key employees on which Grantor is a beneficiary, rights to receive dividends, distributions, cash, Instruments and other property in respect of or in exchange for pledged equity interests or Investment Property and any letter of credit, guarantee, claim, security interest or other security held by or granted to Grantor.

“Goods” means all “goods” as defined in the UCC, now owned or hereafter acquired by Grantor, wherever located, including embedded software to the extent included in “goods” as defined in the UCC, manufactured homes, standing timber that is cut and removed for sale and unborn young of animals.

“Instruments” means all instruments as such term is defined in the UCC, now owned or hereafter acquired by Grantor.

“Inventory” means all of Grantor’s now owned and hereafter acquired inventory, goods and merchandise, wherever located, to be furnished under any contract of service or held for sale or lease, all returned goods, raw materials, work-in-process, finished goods (including embedded software), other materials and supplies of any kind, nature or description which are used or consumed in Grantor’s business or used in connection with the packing, shipping, advertising, selling or finishing of such goods, merchandise, and all documents of title or other Documents representing them.

“Intellectual Property” means all intellectual and similar property of a Person, including inventions, designs, patents, copyrights, trademarks, service marks, trade names, trade secrets, confidential or proprietary information, customer lists, know-how, software and databases; all embodiments or fixations thereof and all related documentation, applications, registrations and franchises; all licenses or other rights to use any of the foregoing; and all books and records relating to the foregoing.

“Investment Property” means all of Grantor’s right title and interest in and to any and all: (a) securities whether certificated or uncertificated; (b) securities entitlements; (c) securities accounts; (d) commodity contracts; or (e) commodity accounts.

“IP Assignment” means a collateral assignment or security agreement pursuant to which Grantor grants a Lien on Intellectual Property to Lender, as security for the Obligations.

“Letter-of-Credit Rights” means “letter-of-credit rights” as such term is defined in the UCC, now owned or hereafter acquired by Grantor, including rights to payment or performance under a letter of credit, whether or not Grantor, as beneficiary, has demanded or is entitled to demand payment or performance.

“Payment Account” means each bank account established pursuant to this Security Agreement, to which the proceeds of Accounts and other Collateral are deposited or credited, and which is maintained in the name of Lender or Grantor, as Lender may determine, on terms acceptable to Lender.

“Proprietary Rights” means all of Grantor’s now owned and hereafter arising or acquired: licenses, franchises, permits, patents, patent rights, copyrights, works which are the subject matter of copyrights, trademarks, service marks, trade names, trade styles, patent, trademark and service mark applications, and all licenses and rights related to any of the foregoing, and all other rights under any of the foregoing, all extensions, renewals, reissues, divisions, continuations, and continuations-in-part of any of the foregoing, and all rights to sue for past, present and future infringement of any of the foregoing.

“Software” means all “software” as such term is defined in the UCC, now owned or hereafter acquired by Grantor, other than software embedded in any category of Goods, including all computer programs and all supporting information provided in connection with a transaction related to any program.

“**Supporting Obligations**” means all “supporting obligations” as such term is defined in the UCC.

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

All other capitalized terms used but not otherwise defined herein have the meanings given to them in the Loan Agreement. All other undefined terms contained in this Security Agreement, unless the context indicates otherwise, have the meanings provided for by the UCC to the extent the same are used or defined therein.

2. **Grant of Lien.**

(a) As security for all of the Guaranteed Obligations (as defined in the Guaranty) of Grantor, Grantor hereby grants to Lender a continuing security interest in, Lien on, assignment of and right of set-off against, all of the following property and assets of Grantor, whether now owned or existing or hereafter acquired or arising, regardless of where located:

- (i) all Accounts;
- (ii) all Inventory;
- (iii) all contract rights;
- (iv) all Chattel Paper;
- (v) all Documents;
- (vi) all Instruments;
- (vii) all Supporting Obligations and Letter-of-Credit Rights;
- (viii) all General Intangibles (including Intellectual Property);
- (ix) all Goods;
- (x) all Equipment;
- (xi) all Investment Property;
- (xii) all money, cash, cash equivalents, securities and other property of any kind of Grantor held directly or indirectly by Lender;
- (xiii) all of Grantor’s Deposit Accounts, credits, and balances with and other claims against Lender or any of its Affiliates or any other financial institution with which Grantor maintains deposits, including any Payment Accounts;
- (xiv) all books, records and other property related to or referring to any of the foregoing, including books, records, account ledgers, data processing records, computer software and other property and General Intangibles at any time evidencing or relating to any of the foregoing;
- (xv) all commercial tort claims in which Grantor is a plaintiff; and
- (xvi) all accessions to, substitutions for and replacements, products and proceeds of any of the foregoing, including, but not limited to, proceeds of any insurance policies, claims against third parties, and condemnation or requisition payments with respect to all or any of the foregoing.

All of the foregoing, together with all Equity Interests in Subsidiaries pledged to Lender and all other property of Grantor in which Lender may at any time be granted a Lien as collateral for the Guaranteed Obligations, is herein collectively referred to as the “**Collateral**”.

(b) All of the Guaranteed Obligations shall be secured by all of the Collateral.

3. **Perfection and Protection of Security Interest.**

(a) Grantor shall, at its expense, perform all steps reasonably requested by Lender at any time to perfect, maintain, protect, and enforce Lender's Liens, including: (i) executing, delivering and/or filing and recording of the IP Assignments and executing and filing financing or continuation statements, and amendments thereof, in form and substance reasonably satisfactory to Lender and Grantor; (ii) delivering to Lender warehouse receipts covering any portion of the Collateral located in warehouses and for which warehouse receipts are issued and certificates of title covering any portion of the Collateral for which certificates of title have been issued; (iii) when an Event of Default has occurred and is continuing, transferring Inventory to warehouses or other locations designated by Lender; (iv) placing notations on Grantor's books of account to disclose Lender's security interest; and (v) taking such other steps as are deemed reasonably necessary by Lender to maintain and protect Lender's Liens. Grantor agrees that a carbon, photographic, photostatic, or other reproduction of this Security Agreement or of a financing statement is sufficient as a financing statement.

(b) Unless Lender shall otherwise consent in writing (which consent may be revoked by Lender in its discretion), Grantor shall deliver to Lender all Collateral consisting of negotiable Documents, certificated securities (accompanied by stock powers executed in blank), Chattel Paper and Instruments promptly after Grantor receives the same.

(c) Grantor shall, in accordance with, and to the extent required by, the terms of the Loan Agreement, obtain or use its commercially reasonable efforts to obtain: (i) waivers or subordinations of Liens from landlords and mortgagees, and (ii) signed acknowledgements of Lender's Liens from bailees having possession of any Collateral that they hold for the benefit of Lender.

(d) If required by the terms of the Loan Agreement and not waived by Lender in writing (which waiver may be revoked by Lender in its discretion), Grantor shall obtain authenticated control agreements from each issuer of uncertificated securities, securities intermediary, or commodities intermediary issuing or holding any financial assets or commodities to or for Grantor.

(e) If Grantor is or becomes the beneficiary of a letter of credit, Grantor shall promptly notify Lender thereof and, if requested by Lender, enter into a tri-party agreement with Lender and the issuer and/or confirmation bank with respect to Letter-of-Credit Rights assigning such Letter-of-Credit Rights to Lender and directing all payments pursuant to the written instructions of Lender, all in form and substance reasonably satisfactory to Lender and Grantor.

(f) Grantor shall take all steps reasonably necessary to grant Lender control of all electronic chattel paper in accordance with the UCC and all "transferable records" as defined in the Uniform Electronic Transactions Act.

(g) Grantor hereby irrevocably authorizes Lender at any time and from time to time to file in any filing office in any jurisdiction any initial financing statements and amendments thereto that (a) indicate the Collateral (i) as all assets of Grantor or words of similar effect, regardless of whether any particular asset comprised in the Collateral falls within the scope of Article 9 of the UCC of the State of New York or such other jurisdiction, or (ii) as being of an equal or lesser scope or with greater detail, and (b) contain any other information required by part 5 of Article 9 of the UCC of the State of New York for the sufficiency or filing office acceptance of any financing statement or amendment, including (i) whether Grantor is an organization, the type of organization and any organization identification number issued to Grantor, and (ii) in the case of a financing statement filed as a fixture filing or indicating Collateral as as-extracted collateral or timber to be cut, a sufficient description of real property to which the Collateral relates. Grantor agrees to furnish any such information to Lender promptly upon request. Grantor also ratifies its authorization for Lender to have filed in any jurisdiction any like initial financing statements or amendments thereto if filed prior to the date hereof.

(h) Grantor shall promptly notify Lender of any commercial tort claim (as defined in the UCC) acquired by Grantor and unless otherwise consented by Lender, Grantor shall enter into a supplement to this Security Agreement, granting to Lender a Lien in such commercial tort claim.

(i) From time to time, Grantor shall, upon Lender's reasonable request, execute and deliver confirmatory written instruments pledging to Lender the Collateral, but Grantor's failure to do so shall not affect or limit any security interest or any other rights of Lender in and to the Collateral with respect to Grantor. So long as the Loan Agreement is in effect and until all Guaranteed Obligations have been fully satisfied, Lender's Liens shall continue in full force and effect in all Collateral (whether or not deemed eligible for the purpose of calculating the Availability or as the basis for any advance, loan, extension of credit, or other financial accommodation).

(j) If an Event of Default has occurred and is continuing, Grantor shall, upon request by Lender, provide to Lender a certificate of good standing from its state of incorporation or organization.

(k) Without limiting the prohibitions on mergers involving Grantor contained in the Loan Agreement, no Grantor shall reincorporate or reorganize itself under the laws of any jurisdiction other than the jurisdiction in which it is incorporated or organized as of the date hereof or change its type of entity as identified on Schedule II without the prior written consent of Lender.

(l) Grantor acknowledges that it is not authorized to file any financing statement or amendment or termination statement with respect to any financing statement without the prior written consent of Lender and agrees that it will not do so without the prior written consent of Lender, subject to Grantor's rights under Section 9-509(d)(2) of the UCC.

(m) Except as otherwise permitted by the Loan Agreement, Grantor shall not enter into any contract that restricts or prohibits the grant of a security interest in the Collateral, including, without limitation, Accounts, Chattel Paper, Instruments or payment intangibles or the proceeds of the foregoing to Lender.

4. **Location of Collateral.** Grantor represents and warrants to Lender that Schedule I: (a) is a correct and complete list of the location of Grantor's chief executive offices, the locations of its books and records, the locations of the Collateral, and the locations of all of its other places of business; and (b) correctly identifies any of such facilities and locations that are not owned by Grantor and sets forth the names of the owners and lessors or sublessors of such facilities and locations. Grantor covenants and agrees that it will not (i) maintain any Collateral at any location other than those locations listed for Grantor on Schedule I, (ii) otherwise change or add to any of such locations, or (iii) change the location of Grantor's chief executive office from the location identified in Schedule I, unless Grantor gives Lender at least thirty (30) days' prior written notice thereof and executes any and all financing statements and other documents, each in form and substance reasonably acceptable to Lender and Grantor, that Lender reasonably requests in connection therewith. Without limiting the foregoing, except as otherwise provided in the Loan Agreement, Grantor represents that all of its Inventory (other than Inventory in transit) is, and covenants that all of its Inventory will be, located either (a) on premises owned by Grantor or at a "bin location" used by Grantor, (b) on premises leased by Grantor, provided that, to the extent required by the Loan Agreement, Lender has received an executed landlord waiver from the landlord of such premises in form and substance satisfactory to Lender and Grantor, or (c) in a warehouse or with a bailee, provided that, to the extent required by the Loan Agreement, Lender has received an executed bailee letter from the applicable Person in form and substance satisfactory to Lender and Grantor.

5. **Jurisdiction of Organization.** Schedule II hereto identifies Grantor's name as of the Closing Date as it appears in official filings in the state of its incorporation or other organization, the type of entity of Grantor (including corporation, partnership, limited partnership or limited liability company), organizational identification number issued by Grantor's state of incorporation or organization or a statement that no such number has been issued and the jurisdiction in which Grantor is incorporated or organized. Grantor has only one state of incorporation or organization.

6. **Title to, Liens on, and Sale and Use of Collateral.** Grantor represents and warrants to Lender and agrees with Lender that: (a) Grantor has rights in and the power to transfer all of the Collateral free and clear of all Liens whatsoever, except for Permitted Liens; (b) Lender's Liens in the Collateral will not be subject to any prior Lien (except for Permitted Liens); and (c) Grantor will use, store, and maintain the Collateral with all reasonable care and will use such Collateral for lawful purposes only.

7. **Reserved.**

8. **Access and Examination; Appraisals.**

(a) Grantor shall permit Lender from time to time, during reasonable business hours and upon reasonable prior notice to Grantor (unless an Event of Default exists), to visit and inspect the Properties of Grantor, inspect, audit and make extracts from Grantor's books and records, review Grantor's Inventory and discuss with its officers, employees, agents, advisors and independent accountants Grantor's business, financial condition, assets, prospects and results of operations. Lender shall have no duty to Grantor to make any review or inspection, nor to share any results of any review, inspection, appraisal or report with Grantor. Grantor acknowledges that all reviews, inspections, appraisals and reports are prepared by Lender for its purposes, and Grantor shall not be entitled to rely upon them.

(b) Grantor shall reimburse Lender for all reasonable charges, costs and expenses of Lender in connection with examinations of Grantor's books and records or any other financial or Collateral matters to the same extent that Borrowers are required to reimburse Lender under Section 10.1.1 of the Loan Agreement for such similar activities.

(c) This Section 8 shall not be construed to limit Lender's right to use consultants or other third parties for such purposes.

9. **Financial and Collateral Reporting.** Grantor shall provide Lender with all financial statements, financial reports, reports relating to the Collateral and such other reports and information as may be reasonably requested by Lender from time to time prepared for Grantor substantially similar to the financial statements, reports and information required to be delivered by Borrowers to Lender pursuant to the Loan Agreement.

10. **Accounts.**

(a) Grantor shall keep accurate and complete records of its Accounts, including all payments and collections thereon, and, if requested by Lender, shall submit to Lender, sales, collection and reconciliation reports in form, substance and on a periodic basis as is required of Borrowers pursuant to the Loan Agreement.

(b) If an Account of Grantor includes a charge for any Taxes, Lender is authorized, in its discretion, to pay the amount thereof to the proper taxing authority for the account of Grantor and to charge Borrowers therefor; provided, however, that Lender shall not be liable for any Taxes that may be due from Grantor or with respect to any Collateral.

(c) Whether or not a Default or Event of Default exists, Lender, at its sole cost and expense unless an Event of Default exists, shall have the right at any time, in the name of Lender, any designee of Lender or Grantor, to verify the validity, amount or any other matter relating to any Accounts of Grantor by mail, telephone or otherwise. Grantor shall reasonably cooperate with Lender in an effort to facilitate and promptly conclude any such verification process.

(d) Grantor shall maintain Dominion Accounts pursuant to lockbox or other arrangements reasonably acceptable to Lender. Grantor shall obtain an agreement (in form and substance reasonably satisfactory to Lender and Grantor) from each lockbox servicer and Dominion Account bank, establishing Lender's control over and Lien in the lockbox or Dominion Account, requiring immediate deposit of all remittances received in the lockbox to a Dominion Account, and waiving offset rights of such servicer or bank, except for customary administrative charges. If a Dominion Account is not maintained with Bank of America, Lender may require immediate transfer of all funds in such account to a Dominion Account maintained with Bank of America. Lender assumes no responsibility to Grantor for any lockbox arrangement or Dominion Account, including any claim of accord and satisfaction or release with respect to any Payment Items accepted by any bank.

(e) Grantor shall request in writing and otherwise take all necessary steps to ensure that all payments on Accounts or otherwise relating to Collateral are made directly to a Dominion Account (or a lockbox relating to a Dominion Account). If Grantor receives cash or Payment Items with respect to any Collateral, it shall hold same in trust for Lender and promptly (not later than the next Business Day) deposit the same into a Dominion Account.

11. **Inventory.**

(a) Grantor shall keep accurate and complete records of its Inventory, including costs and daily withdrawals and additions, and, if requested by Lender, shall submit to Lender, inventory and reconciliation reports in form, substance and on a periodic basis as is required of Borrowers pursuant to the Loan Agreement. Grantor shall conduct a physical inventory at least once per calendar year (and on a more frequent basis if requested by Lender when an Event of Default exists) and periodic cycle counts consistent with historical practices, and shall provide to Lender a report based on each such inventory and count promptly upon completion thereof, together with such supporting information as Lender may reasonably request. Lender, at its sole cost and expense, may participate in and observe each physical count.

(b) Grantor shall not return any Inventory to a supplier, vendor or other Person, whether for cash, credit or otherwise, unless (a) such return is in the ordinary course of business; (b) no Default, Event of Default or Overadvance exists or would result therefrom; (c) Lender is promptly notified if the aggregate Value of all Inventory returned in any month exceeds the amount set forth in the Loan Agreement with respect to Inventory returns by Borrowers; and (d) any payment received by Grantor for a return is promptly remitted to Lender for application to the Obligations (to the extent required by the Loan Agreement).

(c) Grantor shall not acquire or accept any Inventory on consignment or approval, and shall take all steps to assure that all Inventory is produced in accordance with Applicable Law, including the FLSA. Grantor shall not sell any Inventory on consignment or approval or any other basis under which the customer may return or require Grantor to repurchase such Inventory. Grantor shall use, store and maintain all Inventory with reasonable care and caution, in accordance with applicable standards of any insurance and in conformity with all applicable law, and shall make current rent payments (within applicable grace periods provided for in leases) at all locations where any Collateral is located.

12. **Equipment.**

(a) Grantor shall keep accurate and complete records of its Equipment, including kind, quality, quantity, cost, acquisitions and dispositions thereof, and shall submit to Lender, on such periodic basis as Lender may reasonably request, a current schedule thereof, in form reasonably satisfactory to Lender. Promptly upon request, Grantor shall deliver to Lender evidence of its ownership or interests in any Equipment.

(b) Grantor shall not sell, lease or otherwise dispose of any Equipment, without the prior written consent of Lender, other than replacement of Equipment that is worn, damaged or obsolete with Equipment of like function and value, if the replacement Equipment is acquired substantially contemporaneously with such disposition and is free of Liens.

(c) The Equipment is in good operating condition and repair, and all necessary replacements and repairs have been made so that the value and operating efficiency of the Equipment is preserved at all times, reasonable wear and tear excepted. Grantor shall ensure that the Equipment is mechanically and structurally sound, and capable of performing the functions for which it was designed, in accordance with manufacturer specifications. Grantor shall not permit any Equipment to become affixed to real Property unless any landlord or mortgagee delivers a Lien Waiver.

13. **Reserved.**

14. **Documents, Instruments, and Chattel Paper.** Grantor represents and warrants to Lender that (a) all Documents, Instruments, and Chattel Paper describing, evidencing, or constituting Collateral, and all signatures and endorsements thereon, are and will be complete, valid, and genuine, and (b) all goods evidenced by such Documents, Instruments, Letter of Credit Rights and Chattel Paper are and will be owned by Grantor, free and clear of all Liens other than Permitted Liens. If Grantor retains possession of any Chattel Paper or Instruments with Lender's consent, such Chattel Paper and Instruments shall be marked with the following legend: "This writing and the obligations evidenced or served hereby are subject to the security interest of Bank of America, N.A."

15. **Right to Cure.** Lender may pay any amount or do any act required of Grantor hereunder or under any other Loan Document if reasonably necessary to preserve, protect, maintain or enforce the Guaranteed Obligations, the Collateral or Lender's Liens therein, and which Grantor fails to pay or do, including payment of any judgment against Grantor, any insurance premium, any warehouse charge, any finishing or processing charge, any landlord's or bailee's claim, and any other Lien upon or with respect to the Collateral. All payments that Lender makes under this Section 15 and all reasonable out-of-pocket costs and expenses that Lender actually incurs in connection with any action taken by it hereunder shall be charged to Grantor's account as a Loan. Any payment made or other action taken by Lender under this Section 15 shall be without prejudice to any right to assert an Event of Default hereunder and to proceed thereafter as herein provided.

16. **Power of Attorney.** Grantor hereby appoints Lender and Lender's designee as Grantor's attorney, with power: (a) endorse Grantor's name on any Payment Item or other proceeds of Collateral (including proceeds of insurance) that come into Lender's possession or control; and (b) during the continuance of an Event of Default, (i) notify any Account Debtors of the assignment of their Accounts, demand and enforce payment of Accounts, by legal proceedings or otherwise, and generally exercise any rights and remedies with respect to Accounts; (ii) settle, adjust, modify, compromise, discharge or release any Accounts or other Collateral, or any legal proceedings brought to collect Accounts or Collateral; (iii) collect, liquidate and receive balances in Deposit Accounts or investment accounts, and take control, in any manner, of proceeds of Collateral; (iv) receive, open and dispose of mail addressed to Grantor, and notify postal authorities to deliver any such mail to an address designated by Lender; (v) use Grantor's stationery and sign its name to verifications of Accounts and notices to Account Debtors; (vi) use information contained in any data processing, electronic or information systems relating to Collateral; (vii) make and adjust claims under insurance policies; and (viii) do all other things reasonably necessary to carry out the intent and purpose of this Agreement.

17. **Lender's Rights, Duties and Liabilities.**

(a) Grantor assumes all responsibility and liability arising from or relating to the use, sale, license or other disposition of the Collateral. The Guaranteed Obligations shall not be affected by any failure of Lender to take any steps to perfect Lender's Liens or to collect or realize upon the Collateral, nor shall loss of or damage to the Collateral release Grantor from any of the Guaranteed Obligations. Following the occurrence and during the continuation of an Event of Default, Lender may (but shall not be required to), without notice to or consent from Grantor, sue upon or otherwise collect, extend the time for payment of, modify or amend the terms of, compromise or settle for cash, credit, or otherwise upon any terms, grant other indulgences, extensions, renewals, compositions, or releases, and take or omit to take any other action with respect to the Collateral, any security therefor, any agreement relating thereto, any insurance applicable thereto, or any Person liable directly or indirectly in connection with any of the foregoing, without discharging or otherwise affecting the liability of Grantor for the Guaranteed Obligations or under the Loan Agreement or any other agreement now or hereafter existing between Lender and Grantor.

(b) It is expressly agreed by Grantor that, anything herein to the contrary notwithstanding, Grantor shall remain liable under each of its contracts and each of its licenses to observe and perform all the conditions and obligations to be observed and performed by it thereunder. Lender shall have no obligation or liability under any contract or license by reason of or arising out of this Security Agreement or the granting herein of a Lien thereon or the receipt by Lender of any payment relating to any contract or license pursuant hereto, except in connection with Lender's gross negligence or willful misconduct. Lender shall not be required or obligated in any manner to perform or fulfill any of the obligations of Grantor under or pursuant to any contract or license, or to make any payment, or to make any inquiry as to the nature or the sufficiency of any payment received by it or the sufficiency of any performance by any party under any contract or license, or to present or file any claims, or to take any action to collect or enforce any performance or the payment of any amounts which may have been assigned to it or to which it may be entitled at any time or times.

(c) Lender may at any time after a Default or an Event of Default has occurred and be continuing (or if any rights of set-off (other than set-offs against an Account arising under the contract giving rise to the same Account) or contra accounts may be asserted with respect to the following), without prior notice to Grantor, notify Account Debtors, and other Persons obligated on the Collateral that Lender has a security interest therein, and that payments shall be made directly to Lender. Upon the request of Lender, Grantor shall so notify Account Debtors and other Persons obligated on Collateral. Once any such notice has been given to any Account Debtor or other Person obligated on the Collateral, Grantor shall not give any contrary instructions to such Account Debtor or other Person without Lender's prior written consent.

(d) Following the occurrence and during the continuance of an Event of Default, Lender may at any time in Lender's own name or in the name of Grantor communicate with Account Debtors, parties to contracts and obligors in respect of Instruments to verify with such Persons, to Lender's satisfaction, the existence, amount and terms of Accounts, payment intangibles, Instruments or Chattel Paper. If a Default or Event of Default shall have occurred and be continuing, Grantor, at its own expense, shall cause the independent certified public accountants then engaged by Grantor to prepare and deliver to Lender at any time and from time to time promptly upon Lender's reasonable request the following reports with respect to Grantor: (i) a reconciliation of all Accounts; (ii) an aging of all Accounts; (iii) trial balances; and (iv) a test verification of such Accounts as Lender may reasonably request. Grantor, at its own expense, shall deliver to Lender the results of each physical verification, if any, which Grantor may in its discretion have made, or caused any other Person to have made on its behalf, of all or any portion of its Inventory.

18. **Patent, Trademark and Copyright Collateral.**

(a) Grantor has no interest in, or title to, any patent, trademark or copyright except as set forth in Schedule III hereto. This Security Agreement is effective to create a valid and continuing Lien on and, upon filing of the IP Assignments with the appropriate offices, perfected Liens in favor of Lender on Grantor's patents, trademarks and copyrights and such perfected Liens are enforceable as such as against any and all creditors of and purchasers from Grantor. Upon filing of the IP Assignments with the appropriate offices and the filing of appropriate financing statements, all action necessary or desirable to protect and perfect Lender's Lien on Grantor's patents, trademarks or copyrights shall have been duly taken.

(b) Grantor shall notify Lender promptly if it knows or has reason to know that any application or registration relating to any patent, trademark or copyright (now or hereafter existing) may become abandoned or dedicated, or of any adverse determination or development (including the institution of, or any such determination or development in, any proceeding in the United States Patent and Trademark Office, the United States Copyright Office or any court) regarding Grantor's ownership of any patent, trademark or copyright, its right to register the same, or to keep and maintain the same.

(c) In no event shall Grantor, either directly or through any agent, employee, licensee or designee, file an application for the registration of any patent, trademark or copyright with the United States Patent and Trademark Office, the United States Copyright Office or any similar office or agency without giving Lender prior written notice thereof, and, upon request of Lender, Grantor shall execute and deliver any and all IP Assignments, each in form and substance reasonably acceptable to Grantor and Lender, as Lender may request to evidence Lender's Lien on such patent, trademark or copyright, and the General Intangibles of Grantor relating thereto or represented thereby.

(d) Grantor shall take all actions reasonably necessary to maintain and pursue each application, to obtain the relevant registration and to maintain the registration of each of the patents, trademarks and copyrights (now or hereafter existing), including the filing of applications for renewal, affidavits of use, affidavits of noncontestability and opposition and interference and cancellation proceedings.

(e) In the event that any of the patent, trademark or copyright Collateral is infringed upon, or misappropriated or diluted by a third party, the applicable Grantor shall notify Lender promptly after Grantor learns thereof. Grantor shall, unless it shall reasonably determine that such patent, trademark or copyright Collateral is in no way material to the conduct of its business or operations, promptly sue for infringement, misappropriation or dilution and to recover any and all damages for such infringement, misappropriation or dilution, and shall take such other actions as Lender shall deem reasonably necessary under the circumstances to protect such patent, trademark or copyright Collateral.

19. **Indemnification.** In any suit, proceeding or action brought by Lender relating to any Collateral for any sum owing with respect thereto or to enforce any rights or claims with respect thereto, Grantor will save, indemnify and keep Lender harmless from and against all reasonable expense (including reasonable attorneys' fees and expenses), loss or damage suffered by reason of any defense, setoff, counterclaim, recoupment or reduction of liability whatsoever of the Account Debtor or other Person obligated on the Collateral, arising out of a breach by Grantor of any obligation thereunder or arising out of any other agreement, indebtedness or liability at any time owing to, or in favor of, such obligor or its successors from Grantor, except in the case of Lender, to the extent such expense, loss, or damage is attributable solely to the gross negligence or willful misconduct of Lender as finally determined by a court of competent jurisdiction. All such obligations of Grantor shall be and remain enforceable against and only against Grantors and shall not be enforceable against Lender, except in the case of Lender's gross negligence or willful misconduct.

20. **Limitation on Liens on Collateral.** Grantors will not create, permit or suffer to exist, and will defend the Collateral against, and take such other action as is reasonably necessary to remove, any Lien on the Collateral except Permitted Liens, and will defend the right, title and interest of Lender in and to any of Grantor's rights under the Collateral against the claims and demands of all Persons whomsoever, except in connection with Permitted Liens.

21. **Notice Regarding Collateral.** Grantor will advise Lender promptly, in reasonable detail, (i) of any Lien (other than Permitted Liens) or claim made or asserted against any of the Collateral, and (ii) of the occurrence of any other event which would have a Material Adverse Effect.

22. **Remedies; Rights upon Default.**

(a) In addition to all other rights and remedies granted to it under this Security Agreement, the Loan Agreement, the other Loan Documents and under any other instrument or agreement securing, evidencing or relating to any of the Guaranteed Obligations, if any Event of Default shall have occurred and be continuing, Lender may exercise all rights and remedies of a secured party under the UCC. Without limiting the generality of the foregoing, Grantor expressly agrees that in any such event Lender, without demand of performance or other demand, advertisement or notice of any kind (except the notice specified below of time and place of public or private sale) to or upon Grantor or any other Person (all and each of which demands, advertisements and notices are hereby expressly waived to the maximum extent permitted by the UCC and other applicable law), may forthwith enter upon the premises of Grantor where any Collateral is located through self-help, without judicial process, without first obtaining a final judgment or giving Grantor or any other Person notice and opportunity for a hearing on Lender's claim or action and may collect, receive, assemble, process, appropriate and realize upon the Collateral, or any part thereof, and may forthwith sell, lease, license, assign, give an option or options to purchase, or sell or otherwise dispose of and deliver said Collateral (or contract to do so), or any part thereof, in one or more parcels at a public or private sale or sales, at any exchange at such prices as it may deem acceptable in good faith, for cash or on credit or for future delivery without assumption of any credit risk. Lender shall have the right upon any such public sale or sales and, to the extent permitted by law, upon any such private sale or sales, to purchase for the benefit of Lender, the whole or any part of said Collateral so sold, free of any right or equity of redemption, which equity of redemption Grantor hereby releases. Such sales may be adjourned and continued from time to time with or without notice. Lender shall have the right to conduct such sales on Grantor's premises or elsewhere and shall have the right to use Grantor's premises without charge for such time or times as Lender deems necessary or advisable.

(b) Grantor further agrees, at Lender's request, to assemble the Collateral and make it available to Lender at a place or places reasonably designated by Lender, whether at Grantor's premises or elsewhere. Until Lender is able to effect a sale, lease, or other disposition of Collateral, Lender shall have the right to hold or use Collateral, or any part thereof, to the extent that it deems reasonably necessary for the purpose of preserving Collateral or its value. Lender shall have no obligation to Grantor to maintain or preserve the rights of Grantor as against third parties with respect to Collateral while Collateral is in the possession of Lender. Lender may, if it so elects, seek the appointment of a receiver or keeper to take possession of Collateral and to enforce any of Lender's remedies with respect to such appointment without prior notice or hearing as to such appointment. Lender shall apply the net proceeds of any such collection, recovery, receipt, appropriation, realization or sale to the Obligations as provided in the Loan Agreement, and only after so paying over such net proceeds, and after the payment by Lender of any other amount required by any provision of law, need Lender account for the surplus, if any, to Grantor. To the maximum extent permitted by applicable law, Grantor waives all claims, damages, and demands against Lender arising out of the repossession, retention or sale of the Collateral except such as arise solely out of the gross negligence or willful misconduct of Lender as finally determined by a court of competent jurisdiction. Grantor agrees that ten (10) days prior notice by Lender of the time and place of any public sale or of the time after which a private sale may take place is reasonable notification of such matters. Grantor shall remain liable for any deficiency if the proceeds of any sale or disposition of the Collateral are insufficient to pay all Guaranteed Obligations, including any reasonable attorneys' fees or other expenses actually incurred by Lender to collect such deficiency.

(c) Except as otherwise specifically provided herein, Grantor hereby waives presentment, demand, protest or any notice (to the maximum extent permitted by applicable law) of any kind in connection with this Security Agreement or any Collateral.

(d) To the extent that applicable law imposes duties on Lender to exercise remedies in a commercially reasonable manner, Grantor 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 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 remove Liens 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 Grantor, for expressions of interest in acquiring all or any portion of such 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 capacity of doing so, or that match buyers and sellers of assets, (i) to dispose of assets in wholesale rather than retail markets, (j) to disclaim disposition warranties, such as title, possession or quiet enjoyment, (k) 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 (l) to the extent deemed reasonably necessary 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. Grantor acknowledges that the purpose of this Section 22(d) is to provide non-exhaustive indications of what actions or omissions by Lender would not be commercially unreasonable in Lender's exercise of remedies against the Collateral and that other actions or omissions by Lender shall not be deemed commercially unreasonable solely on account of not being indicated in this Section 22(d). Without limitation upon the foregoing, nothing contained in this Section 22(d) shall be construed to grant any rights to Grantor or to impose any duties on Lender that would not have been granted or imposed by this Security Agreement or by applicable law in the absence of this Section 22(d).

23. **Grant of License to Use Intellectual Property.** For the purpose of enabling Lender to exercise rights and remedies under Section 22 hereof (including, without limiting the terms of Section 22 hereof, in order to take possession of, hold, preserve, process, assemble, prepare for sale, market for sale, sell or otherwise dispose of Collateral) at such time as Lender shall be lawfully entitled to exercise such rights and remedies, Grantor hereby grants to Lender an irrevocable, nonexclusive license (exercisable without payment of royalty or other compensation to Grantor), to the extent Grantor has the right to grant such license, to use, license or sublicense any Intellectual Property now owned or hereafter acquired by Grantor, and wherever the same may be located, and including in such license access to all media in which any of the licensed items may be recorded or stored and to all computer software and programs used for the compilation or printout thereof.

24. **Limitation on Lender's Duty in Respect of Collateral.** Lender shall use reasonable care with respect to the Collateral in its possession or under its control. Lender shall not have any other duty as to any Collateral in its possession or control or in the possession or control of any agent or nominee of Lender, or any income thereon or as to the preservation of rights against prior parties or any other rights pertaining thereto.

25. **Miscellaneous.**

(a) *Reinstatement.* This Security Agreement shall remain in full force and effect and continue to be effective should any petition be filed by or against Grantor for liquidation or reorganization, should Grantor become insolvent or make an assignment for the benefit of any creditor or creditors or should a receiver or trustee be appointed for all or any significant part of Grantor's assets, and shall continue to be effective or be reinstated, as the case may be, if at any time payment and performance of the Guaranteed Obligations, or any part thereof, is, pursuant to applicable law, rescinded or reduced in amount, or must otherwise be restored or returned by any obligee of the Guaranteed Obligations, whether as a "voidable preference," "fraudulent conveyance," or otherwise, all as though such payment or performance had not been made. In the event that any payment, or any part thereof, is rescinded, reduced, restored or returned, the Guaranteed Obligations shall be reinstated and deemed reduced only by such amount paid and not so rescinded, reduced, restored or returned.

(b) *Notices.* Except as otherwise provided herein, whenever it is provided herein that any notice, demand, request, consent, approval, declaration or other communication shall or may be given to or served upon any of the parties by any other party, or whenever any of the parties desires to give and serve upon any other party any communication with respect to this Security Agreement, each such notice, demand, request, consent, approval, declaration or other communication shall be in writing and shall be given in the manner, and deemed received, as provided for in the Loan Agreement.

(c) *Severability.* Whenever possible, each provision of this Security Agreement shall be interpreted in a manner as to be effective and valid under applicable law, but if any provision of this Security Agreement shall be prohibited by or invalid under applicable law, such provision shall be ineffective to the extent of such prohibition or invalidity without invalidating the remainder of such provision or the remaining provisions of this Security Agreement. This Security Agreement is to be read, construed and applied together with the Loan Agreement and the other Loan Documents which, taken together, set forth the complete understanding and agreement of Lender and Grantor with respect to the matters referred to herein and therein.

(d) *No Waiver; Cumulative Remedies.* Lender shall not by any act, delay, omission or otherwise be deemed to have waived any of its rights or remedies hereunder, and no waiver shall be valid unless in writing, signed by Lender and then only to the extent therein set forth. A waiver by Lender of any right or remedy hereunder on any one occasion shall not be construed as a bar to any right or remedy which Lender would otherwise have had on any future occasion. No failure to exercise or any delay in exercising on the part of Lender, any right, power or privilege hereunder, shall operate as a waiver thereof, nor shall any single or partial exercise of any right, power or privilege hereunder preclude any other or future exercise thereof or the exercise of any other right, power or privilege. The rights and remedies hereunder provided are cumulative and may be exercised singly or concurrently, and are not exclusive of any rights and remedies provided by law. None of the terms or provisions of this Security Agreement may be waived, altered, modified or amended except by an instrument in writing, duly executed by Lender and Grantor.

(e) *Limitation by Law.* All rights, remedies and powers provided in this Security Agreement may be exercised only to the extent that the exercise thereof does not violate any applicable provision of law, and all the provisions of this Security Agreement are intended to be subject to all applicable mandatory provisions of law that may be controlling and to be limited to the extent necessary so that they shall not render this Security Agreement invalid, unenforceable, in whole or in part, or not entitled to be recorded, registered or filed under the provisions of any applicable law.

(f) *Termination of this Security Agreement.* Subject to Section 25(a) hereof, this Security Agreement shall terminate upon the satisfactory collateralization of all Letters of Credit and the payment in full of all other Guaranteed Obligations (other than indemnification obligations as to which no claim has been asserted).

(g) *Successors and Assigns.* This Security Agreement and all obligations of Grantor hereunder shall be binding upon the successors and assigns of Grantor (including any debtor-in-possession on behalf of Grantor) and shall, together with the rights and remedies of Lender, hereunder, inure to the benefit of Lender, all future holders of any instrument evidencing any of the Guaranteed Obligations and their respective successors and assigns. No sales of participations, other sales, assignments, transfers or other dispositions of any agreement governing or instrument evidencing the Guaranteed Obligations or any portion thereof or interest therein shall in any manner affect the Lien granted to Lender hereunder. Grantors may not assign, sell, hypothecate or otherwise transfer any interest in or obligation under this Security Agreement.

(h) *Counterparts.* This Security Agreement may be authenticated in any number of separate counterparts, each of which shall collectively and separately constitute one and the same agreement. This Security Agreement may be authenticated by manual signature, facsimile or electronic means, all of which shall be equally valid.

(i) *Governing Law.* EXCEPT AS OTHERWISE EXPRESSLY PROVIDED IN ANY OF THE LOAN DOCUMENTS, IN ALL RESPECTS, INCLUDING ALL MATTERS OF CONSTRUCTION, VALIDITY AND PERFORMANCE, THIS SECURITY AGREEMENT AND THE OBLIGATIONS ARISING HEREUNDER SHALL BE GOVERNED BY, AND CONSTRUED AND ENFORCED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK APPLICABLE TO CONTRACTS MADE AND PERFORMED IN THAT STATE. GRANTORS HEREBY CONSENT AND AGREE THAT THE STATE OR FEDERAL COURTS LOCATED IN NEW YORK COUNTY, CITY OF NEW YORK, SHALL HAVE EXCLUSIVE JURISDICTION TO HEAR AND DETERMINE ANY CLAIMS OR DISPUTES BETWEEN GRANTOR AND LENDER PERTAINING TO THIS SECURITY AGREEMENT OR ANY OF THE OTHER LOAN DOCUMENTS OR TO ANY MATTER ARISING OUT OF OR RELATING TO THIS SECURITY AGREEMENT OR ANY OF THE OTHER LOAN DOCUMENTS, PROVIDED, THAT LENDER AND GRANTORS ACKNOWLEDGE THAT ANY APPEALS FROM THOSE COURTS MAY HAVE TO BE HEARD BY A COURT LOCATED OUTSIDE OF NEW YORK COUNTY, CITY OF NEW YORK, AND, PROVIDED, FURTHER, NOTHING IN THIS SECURITY AGREEMENT SHALL BE DEEMED OR OPERATE TO PRECLUDE LENDER FROM BRINGING SUIT OR TAKING OTHER LEGAL ACTION IN ANY OTHER JURISDICTION TO REALIZE ON THE COLLATERAL OR ANY OTHER SECURITY FOR THE GUARANTEED OBLIGATIONS, OR TO ENFORCE A JUDGMENT OR OTHER COURT ORDER IN FAVOR OF LENDER. GRANTOR EXPRESSLY SUBMITS AND CONSENTS IN ADVANCE TO SUCH JURISDICTION IN ANY ACTION OR SUIT COMMENCED IN ANY SUCH COURT, AND GRANTOR HEREBY WAIVES ANY OBJECTION WHICH THEY MAY HAVE BASED UPON LACK OF PERSONAL JURISDICTION, IMPROPER VENUE OR FORUM NON CONVENIENS AND HEREBY CONSENTS TO THE GRANTING OF SUCH LEGAL OR EQUITABLE RELIEF AS IS DEEMED APPROPRIATE BY SUCH COURT. GRANTOR HEREBY WAIVES PERSONAL SERVICE OF THE SUMMONS, COMPLAINT AND OTHER PROCESS ISSUED IN ANY SUCH ACTION OR SUIT AND AGREES THAT SERVICE OF SUCH SUMMONS, COMPLAINTS AND OTHER PROCESS MAY BE MADE BY REGISTERED OR CERTIFIED MAIL ADDRESSED TO GRANTOR AT THE ADDRESS SET FORTH ON THE SIGNATURE PAGES OF THE GUARANTY AND THAT SERVICE SO MADE SHALL BE DEEMED COMPLETED UPON THE EARLIER OF ACTUAL RECEIPT THEREOF OR THREE (3) DAYS AFTER DEPOSIT IN THE U.S. MAILED, PROPER POSTAGE PREPAID.

(j) *Waiver of Jury Trial.* BECAUSE DISPUTES ARISING IN CONNECTION WITH COMPLEX FINANCIAL TRANSACTIONS ARE MOST QUICKLY AND ECONOMICALLY RESOLVED BY AN EXPERIENCED AND EXPERT PERSON AND THE PARTIES WISH APPLICABLE STATE AND FEDERAL LAWS TO APPLY (RATHER THAN ARBITRATION RULES), THE PARTIES DESIRE THAT DISPUTES ARISING HEREUNDER OR RELATING HERETO BE RESOLVED BY A JUDGE APPLYING SUCH APPLICABLE LAWS. THEREFORE, TO ACHIEVE THE BEST COMBINATION OF THE BENEFITS OF THE JUDICIAL SYSTEM AND OF ARBITRATION, THE PARTIES HERETO WAIVE ALL RIGHT TO TRIAL BY JURY IN ANY ACTION, SUIT OR PROCEEDING BROUGHT TO RESOLVE ANY DISPUTE, WHETHER SOUNDING IN CONTRACT, TORT, OR OTHERWISE, BETWEEN LENDER AND GRANTOR ARISING OUT OF, CONNECTED WITH, RELATED TO, OR INCIDENTAL TO THE RELATIONSHIP ESTABLISHED IN CONNECTION WITH, THIS SECURITY AGREEMENT OR ANY OF THE OTHER LOAN DOCUMENTS OR THE TRANSACTIONS RELATED HERETO OR THERETO.

(k) *Section Titles.* The Section titles contained in this Security Agreement are and shall be without substantive meaning or content of any kind whatsoever and are not a part of the agreement between the parties hereto.

(l) *No Strict Construction.* The parties hereto have participated jointly in the negotiation and drafting of this Security Agreement. In the event an ambiguity or question of intent or interpretation arises, this Security Agreement shall be construed as if drafted jointly by the parties hereto and no presumption or burden of proof shall arise favoring or disfavoring any party by virtue of the authorship of any provisions of this Security Agreement.

(m) *Advice of Counsel.* Each of the parties represents to each other party hereto that it has discussed this Security Agreement and, specifically, the provisions of Section 25(i) and Section 25(j), with its counsel.

(n) *Benefit of Lender.* All Liens granted or contemplated hereby shall be for the benefit of Lender, and all proceeds or payments realized from Collateral in accordance herewith shall be applied to the Guaranteed Obligations in accordance with the terms of the Loan Agreement.

[Signature page follows]

IN WITNESS WHEREOF, Grantor has executed this General Security Agreement as of the date first written above.

Address for Grantors:

GRANTORS:

7100 Grade Lane, Bldg. 1
Louisville, KY 40213
Attn: Todd Phillips

ISA INDIANA, INC.

By: /s/ Todd L. Phillips
Todd L. Phillips, President, Secretary and Treasurer

ISA LOGISTICS LLC

BY: INDUSTRIAL SERVICES OF AMERICA, INC., Sole Member

By: /s/ Todd L. Phillips
Todd L. Phillips, Chief Executive Officer, President and Chief Financial Officer

ISA REAL ESTATE, LLC

BY: INDUSTRIAL SERVICES OF AMERICA, INC., Manager

By: /s/ Todd L. Phillips
Todd L. Phillips, Chief Executive Officer, President and Chief Financial Officer

7021 GRADE LANE LLC

BY: INDUSTRIAL SERVICES OF AMERICA, INC., Manager

By: /s/ Todd L. Phillips
Todd L. Phillips, Chief Executive Officer, President and Chief Financial Officer

ISA INDIANA REAL ESTATE, LLC

BY: INDUSTRIAL SERVICES OF AMERICA, INC., Manager

By: /s/ Todd L. Phillips
Todd L. Phillips, Chief Executive Officer, President and Chief Financial Officer

BANK OF AMERICA, N.A.

By: /s/ Steven Blumberg

Title: Senior Vice President

Address:

 One Bryant Park
 New York, New York 10036
 Attn: Portfolio Manager

SCHEDULE I
to
SECURITY AGREEMENT
LOCATION OF COLLATERAL

A. Location of Chief Executive Office

<u>Name</u>	<u>Location</u>
ISA Indiana Real Estate, LLC	7100 Grade Lane, Bldg. 1 Louisville, KY 40213
ISA Logistics LLC	
ISA Indiana, Inc.	
ISA Real Estate, LLC	
7021 Grade Lane LLC	

B. Location of Books and Records

<u>Name</u>	<u>Location</u>
ISA Indiana Real Estate, LLC	7100 Grade Lane, Bldg. 1 Louisville, KY 40213
ISA Logistics LLC	
ISA Indiana, Inc.	
ISA Real Estate, LLC	
7021 Grade Lane LLC	

C. Location of Collateral, all other places of business and leased facilities (including name of lessor/sublessor).

<u>Name</u>	<u>Location</u>
ISA Indiana Real Estate, LLC	7100 Grade Lane, Bldg. 1 Louisville, KY 40213 3409 Camp Ground Road Louisville, KY 40211 1617 State Road 111 New Albany, IN 47150 960 S County Road 900 West North Vernon, IN 47265
ISA Logistics LLC	
ISA Indiana, Inc.	
ISA Real Estate, LLC	
7021 Grade Lane LLC	

SCHEDULE II
to
SECURITY AGREEMENT

JURISDICTION OF ORGANIZATION

A. Grantor's: (i) legal name; (ii) type of entity (i.e., corporation, partnership, limited partnership, limited liability company); (iii) Reserved; and (iv) state of Incorporation or Organization.

<u>Name</u>	<u>Jurisdiction</u>	<u>Type of entity</u>
ISA Indiana Real Estate, LLC	Kentucky	Limited Liability Company
ISA Logistics LLC	Kentucky	Limited Liability Company
ISA Indiana, Inc.	Indiana	Corporation
ISA Real Estate, LLC	Kentucky	Limited Liability Company
7021 Grade Lane LLC	Kentucky	Limited Liability Company

SCHEDULE III

Patents, Trademarks and Copyrights

None.

PLEDGE AGREEMENT

This PLEDGE AGREEMENT, dated as of November 9, 2018 (as amended, amended and restated, supplemented or otherwise modified, renewed or replaced from time to time, this “**Agreement**”), is by and between INDUSTRIAL SERVICES OF AMERICA, INC., a Florida corporation (“**Pledgor**”) and BANK OF AMERICA, N.A. (“**Pledgee**”).

R E C I T A L S

WHEREAS, pursuant to that certain Loan and Security Agreement dated as of the date hereof by and between Pledgor, certain of Pledgor’s subsidiaries and/or affiliates and Pledgee, as lender (including all annexes, exhibits and schedules thereto, and as amended, amended and restated, supplemented or otherwise modified, renewed or replaced from time to time, the “**Loan Agreement**”), Pledgee may make loans and other financial accommodations to or for the benefit of Pledgor; and

WHEREAS, it is a condition to the effectiveness of the Loan Agreement that this Pledge Agreement be executed and delivered by the parties hereto.

NOW, THEREFORE, in order to (i) secure the prompt and complete payment and performance when due of the Obligations (as defined in the Loan Agreement) and for good and valuable consideration, the receipt of which is hereby acknowledged, and (ii) grant, pledge, hypothecate and transfer to Pledgee a security interest in Pledgor’s right, title and interest in, to and under the Pledged Collateral (as hereinafter defined) whether presently existing or hereafter arising or acquired, Pledgor and Pledgee (and each of their respective successors or assigns) hereby agree as follows:

SECTION 1. Definition of Certain Terms Used Herein. Except as specifically defined in this Agreement, capitalized terms used herein shall have the respective meanings given thereto in the Loan Agreement.

SECTION 2. Pledge. As security for the payment or performance, as the case may be, in full of the Obligations, Pledgor hereby bargains, sells, conveys, assigns, sets over, mortgages, pledges, hypothecates and transfers to Pledgee, its successors and assigns and hereby grants to Pledgee, its successors and assigns a security interest in all of Pledgor’s right, title and interest in, to and under (i) all Equity Interests owned by Pledgor which are listed on Schedule I hereto (the “**Pledged Equity Interests**”) and the certificates representing all such Pledged Equity Interests, if any; (ii) all other property that may be delivered to and held by Pledgee pursuant to the terms hereof; (iii) subject to Section 7 hereof, all payments of dividends, cash, instruments and other property from time to time received, receivable or otherwise distributed, in respect of, in exchange for or upon the conversion of the Pledged Equity Interests; (iv) subject to Section 7 hereof, all rights and privileges of Pledgor with respect to the Pledged Equity Interests; and (v) all proceeds (as such term is defined in the UCC) of any of the foregoing (the items referred to in clauses (i) through (v) above being collectively referred to as the “**Pledged Collateral**”). Without limiting the foregoing, Pledgee is hereby authorized to file one or more financing statements, continuation statements or other filings or documents for the purpose of perfecting, confirming, continuing, enforcing or protecting the security interest granted by Pledgor hereunder, without the signature of Pledgor, and naming Pledgor or as debtor and Pledgee as secured party.

SECTION 3. No Assumption of Liability. The security interest in the Pledged Collateral is granted as security only and shall not subject Pledgee to any obligation or liability, or in any way alter or modify, any obligation or liability of Pledgor with respect to or arising out of the Pledged Collateral.

SECTION 4. Delivery of the Pledged Collateral. Upon delivery to Pledgee, (i) any stock and/or membership interest certificates or other securities now or hereafter included in the Pledged Collateral (the “**Pledged Securities**”) shall be accompanied by stock and/or membership interest powers duly executed in blank or other instruments of transfer reasonably satisfactory to Pledgee and by such other instruments and documents in form and substance reasonably acceptable to Pledgor and Pledgee as Pledgee may reasonably request in order to allow Pledgee, to exercise its rights and remedies under this Agreement and (ii) all other property comprising part of the Pledged Collateral shall be accompanied by proper instruments of assignment duly executed by Pledgor and such other instruments or documents in form and substance reasonably acceptable to Pledgor and Pledgee as Pledgee may reasonably request. Each delivery of Pledged Securities shall be accompanied by a schedule describing the securities theretofore and then being pledged hereunder, which schedule shall be attached hereto as Schedule I and made a part hereof. Each schedule so delivered shall supersede any prior schedules so delivered. Schedule I may be amended from time to time by the addition of the Pledged Collateral subsequently created or acquired by execution of a Supplement in substantially the form of Annex I attached hereto.

SECTION 5. Representations, Warranties and Covenants. Pledgor hereby represents, warrants and covenants, as to itself and the Pledged Collateral pledged by it hereunder, to Pledgee that:

(a) the Pledged Equity Interests represent that percentage as set forth on Schedule I of the issued and outstanding shares or membership interest of each class of the Equity Interests of the issuer with respect thereto;

(b) except for the security interest granted hereunder, Pledgor (i) is and will at all times continue to be the direct owner, beneficially and of record, of the Pledged Collateral indicated on Schedule I, (ii) holds the same free and clear of all Liens, other than the Liens expressly permitted under the Loan Agreement (the “**Permitted Liens**”), (iii) will make no assignment, pledge, hypothecation or transfer of, or create or permit to exist any security interest in or other Lien, other than Permitted Liens, on, the Pledged Collateral and pursuant hereto, and (iv) subject to Section 6 and Section 7, will cause any and all Pledged Collateral to be forthwith deposited with Pledgee and pledged or assigned hereunder;

(c) Pledgor (i) has the power and authority to pledge the Pledged Collateral in the manner hereby done or contemplated and (ii) will defend its title or interest thereto or therein against any and all Liens (other than Permitted Liens), however arising, of all Persons whomsoever;

(d) except as has been obtained, no consent of any other Person (including members, stockholders or creditors of Pledgor) and no consent or approval of any Governmental Authority or any securities exchange was or is necessary to the validity of the pledge effected hereby;

(e) by virtue of the execution and delivery by Pledgor of this Agreement, when the Pledged Securities, certificates or other documents representing or evidencing the Pledged Collateral are delivered to Pledgee in accordance with this Agreement, Pledgee will have a valid and perfected lien upon, and security interest in, such Pledged Securities as security for the payment and performance of the Obligations;

(f) the pledge effected hereby is effective to vest in Pledgee the rights of Pledgee in the Pledged Collateral as set forth herein;

(g) all information set forth herein relating to the Pledged Collateral, including but not limited to the information set forth on Schedule I hereto, is accurate and complete in all material respects as of the date hereof;

(h) Pledgor has good title to the Pledged Equity Interests and all such Pledged Equity Interests have been duly authorized and validly issued and are fully paid and non-assessable (to the extent applicable);

(i) except as described on Schedule I, the Pledged Equity Interests described on Schedule I hereof constitute all of the issued and outstanding Equity Interests owned by Pledgor;

(j) Pledgor agrees that it will (i) cause each issuer of Pledged Securities not to issue any stock, membership interest, or other securities in addition to or substitution for the Pledged Securities issued by such issuer, except to Pledgor and (ii) pledge hereunder, promptly upon its acquisition (directly or indirectly) thereof, any and all such additional membership interests and/or shares of stock or other securities of each issuer of the Pledged Securities, subject to the terms hereof, and (iii) at all times continue to be the direct owner, beneficially and of record, of the Pledged Collateral indicated on Schedule I hereof;

(k) the pledge of the Pledged Securities pursuant to this Agreement does not violate Regulation T, U or X of the Federal Reserve Board or any successor thereto as of the date hereof; and

(l) Pledgor agrees that no Pledged Equity Interests in a limited liability company owned by Pledgor shall at any time be certificated or constitute a Security under Article 8 of the UCC of the applicable jurisdiction. As used in this section, "Security" and "Certificated Security" shall have the meanings assigned to such terms in Article 8 of the UCC.

SECTION 6. Registration in Nominee Name; Denominations. Pledgee shall have the right (in its sole and absolute discretion) to hold the Pledged Securities in its own name as pledgee, or the name of its nominee (as pledgee or as sub-agent) or the name of Pledgor, endorsed or assigned in blank or in favor of Pledgee. Pledgor will promptly give to Pledgee copies of any material notices or other material communications received by it with respect to Pledged Securities registered in the name of Pledgor. Upon the occurrence and during the continuance of an Event of Default, Pledgee shall at all times have the right to exchange the certificates representing Pledged Securities for certificates of smaller or larger denominations for any purpose consistent with this Agreement and the Loan Documents.

SECTION 7. Voting Rights; Dividends, Etc.

(a) Unless and until an Event of Default shall have occurred and be continuing:

(i) Pledgor shall be entitled to exercise any and all voting and other consensual rights and powers inuring to an owner of Pledged Securities or any part thereof for any purpose consistent with the terms of this Agreement and the other Loan Documents; provided, however, that Pledgor will not be entitled to exercise any such right if the result thereof could materially and adversely affect the rights inuring to a holder of the Pledged Securities or the rights and remedies of Pledgee under this Agreement or any other Loan Document or the ability of Pledgee to exercise the same.

(ii) Pledgor shall be entitled to receive and retain any and all cash dividends paid on the Pledged Collateral to the extent and only to the extent that such cash dividends are permitted by, and otherwise paid in accordance with, the terms and conditions of the Loan Documents and applicable law. All noncash dividends and all dividends paid or payable in cash or otherwise in connection with a partial or total liquidation or dissolution, return of capital, capital surplus or paid-in surplus, and all other distributions (other than distributions referred to in the preceding sentence) made on or in respect of the Pledged Collateral, whether paid or payable in cash or otherwise, whether resulting from a subdivision, combination or reclassification of the outstanding capital stock or membership interest of the issuer of any Pledged Securities or received in exchange for Pledged Collateral or any part thereof, or in redemption thereof, or as a result of any merger, consolidation, acquisition or other exchange of assets to which such issuer may be a party or otherwise, shall be and become part of the Pledged Collateral and, if received by Pledgor, shall not be commingled by Pledgor with any of its other funds or property but shall be held separate and apart therefrom, shall be held in trust for the benefit of Pledgee and shall be forthwith delivered to Pledgee in the same form as so received (with any necessary endorsement).

(iii) Pledgee shall execute and deliver to Pledgor, or cause to be executed and delivered to Pledgor, all such proxies, powers of attorney and other instruments as Pledgor may reasonably request, each in form and substance reasonably acceptable to Pledgor and Pledgee, for the purpose of enabling Pledgor to exercise the voting and/or consensual rights and powers it is entitled to exercise pursuant to subparagraph (i) above and to receive the cash dividends it is entitled to receive pursuant to subparagraph (ii) above.

(b) Upon the occurrence and during the continuance of an Event of Default, all rights of Pledgor to dividends that Pledgor is authorized to receive pursuant to paragraph (a)(ii) above shall cease, and all such rights shall thereupon become vested in Pledgee, which shall have the sole and exclusive right and authority to receive and retain such dividends. All dividends received by Pledgor contrary to the provisions of this Section 7 shall be held in trust for the benefit of Pledgee, shall be segregated from other property or funds of Pledgor and shall be forthwith delivered to Pledgee 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 Pledgee pursuant to the provisions of this paragraph (b) shall be retained by Pledgee in an account to be established by Pledgee upon receipt of such money or other property and shall be applied in accordance with the provisions of the Loan Agreement. After all Events of Default have been cured or waived, Pledgor shall thereafter be entitled to retain all cash dividends that Pledgor would otherwise be permitted to retain pursuant to the terms of paragraph (a)(ii) above.

(c) Upon the occurrence and during the continuance of an Event of Default, all rights of Pledgor to exercise the voting and consensual rights and powers it is entitled to exercise pursuant to paragraph (a)(i) of this Section 7, and the obligations of Pledgee under paragraph (a)(iii) of this Section 7, shall cease upon the giving of notice by Pledgee to Pledgor, and all such rights shall thereupon become vested in Pledgee, which shall have the sole and exclusive right and authority to exercise such voting and consensual rights and powers; provided, that Pledgee shall have the right, but not the obligation, from time to time following and during the continuance of an Event of Default to permit Pledgor to exercise such rights. After all Events of Default have been cured or waived, Pledgor will have the right to exercise the voting and consensual rights and powers that it would otherwise be entitled to exercise pursuant to the terms of paragraph (a)(i) above.

SECTION 8. Remedies upon Default.

(a) Upon the occurrence and during the continuance of an Event of Default, Pledgee may exercise all the rights and remedies granted under this Agreement, including, without limitation, the right to sell the Pledged Collateral, or any part thereof, at public or private sale or at any broker's board, on any securities exchange or in the over-the-counter market, for cash, upon credit or for future delivery as Pledgee shall deem appropriate subject to the terms hereof or as otherwise provided in the Uniform Commercial Code of any applicable jurisdiction. Pledgee shall be authorized at any such sale (if it deems it advisable to do so) to restrict to the full extent permitted by applicable law the prospective bidders or purchasers to Persons who will represent and agree that they are purchasing the Pledged Collateral for their own account for investment and not with a view to the distribution or sale thereof, and upon consummation of any such sale Pledgee shall have the right to assign, transfer and deliver to the purchaser or purchasers thereof the Pledged Collateral so sold. Each such purchaser at any such sale shall hold the property sold absolutely free from any claim or right on the part of Pledgor, and, to the extent permitted by applicable law, Pledgor hereby waives all rights of redemption, stay, valuation and appraisal Pledgor now has or may at any time in the future have under any rule of law or statute now existing or hereafter enacted.

(b) Pledgee shall give Pledgor ten (10) days' prior written notice of Pledgee's intention to make any sale of Pledgor's Pledged Collateral. Such notice, in the case of a public sale, shall state the time and place for such sale and, in the case of a sale at a broker's board or on a securities exchange, shall state the board or exchange at which such sale is to be made and the day on which the Pledged Collateral, or portion thereof, will first be offered for sale at such board or exchange. Any such public sale shall be held at such time or times within ordinary business hours and at such place or places as Pledgee may reasonably fix and state in the notice of such sale. At any such sale, the Pledged Collateral, or portion thereof, to be sold may be sold in one lot as an entirety or in separate parcels, as Pledgee may (in its sole and absolute discretion) determine. Pledgee shall not be obligated to make any sale of any Pledged Collateral if it shall determine not to do so, regardless of the fact that notice of sale of such Pledged Collateral shall have been given. Pledgee may, without notice or publication, adjourn any public or private sale or cause the same to be adjourned from time to time by announcement at the time and place fixed for sale, and such sale may, without further notice, be made at the time and place to which the same was so adjourned. In case any sale of all or any part of the Pledged Collateral is made on credit or for future delivery, the Pledged Collateral so sold may be retained by Pledgee until the sale price is paid in full by the purchaser or purchasers thereof, but Pledgee shall not incur any liability in case any such purchaser or purchasers shall fail to take up and pay for the Pledged Collateral so sold and, in case of any such failure, such Pledged Collateral may be sold again upon like notice. At any public (or, to the extent permitted by applicable law, private) sale made pursuant to this Section 8, Pledgee may bid for or purchase, free from any claim or right of whatever kind, including any equity of redemption, of Pledgor, any such demand, notice, claim, right or equity being hereby expressly waived and released, the Pledged Collateral or any part thereof offered for sale and may make payment on account thereof by using any Obligation then due and payable to it from Pledgor as a credit against the purchase price, and it may, upon compliance with the terms of sale, hold, retain and dispose of such property without further accountability to Pledgor therefor.

SECTION 9. Application of Proceeds of Sale. The proceeds of sale of the Pledged Collateral sold pursuant to Section 8 hereof shall be applied by Pledgee to the payment of all reasonable out-of-pocket costs and expenses paid or incurred by Pledgee in connection with such sale, including, without limitation, all court costs, the reasonable fees and expenses of counsel for Pledgee in connection therewith, the reasonable fees and expenses of any financial consultants in connection therewith and the payment of all reasonable out-of-pocket costs and expenses actually actually incurred by Pledgee in enforcing this Agreement, in realizing or protecting any Pledged Collateral and in enforcing or collecting any Obligations or any guarantee thereof, including, without limitation, court costs, the reasonable attorneys' fees and expenses actually incurred by Pledgee in connection therewith and the reasonable fees and expenses of any financial consultants in connection therewith and then to the indefeasible payment in full in cash of the Obligations in accordance with the terms of the Loan Agreement. Any amounts remaining after such indefeasible payment in full shall be remitted to Pledgor, or as a court of competent jurisdiction may otherwise direct.

SECTION 10. Reimbursement of Pledgee.

(a) Pledgor agrees to pay upon demand by Pledgee the amount of any and all reasonable expenses, including the reasonable fees, other charges and disbursements of its counsel and of any experts or agents, that Pledgee actually incurred in connection with (i) the administration of this Agreement, (ii) the custody or preservation of, or the sale of, collection from, or other realization upon, any of the Pledged Collateral, (iii) the exercise or enforcement of any of the rights of Pledgee hereunder or (iv) the failure by Pledgor to perform or observe any of the provisions hereof in all material respects.

(b) Without limitation of its indemnification obligations under the other Loan Documents, Pledgor agrees to indemnify and defend the Pledgee and its respective Indemnitees (collectively, the "**Indemnified Parties**") against, and hold each such Indemnified Party harmless from, any and all losses, claims, damages, liabilities and related reasonable expenses, including reasonable counsel fees, other charges and disbursements, actually incurred by or asserted against any such Indemnified Party arising out of, in any way connected with, or as a result of (i) the execution or delivery of this Agreement or any other Loan Document or any agreement or instrument contemplated hereby or thereby, the performance by the parties hereto of their respective obligations thereunder or the consummation of the other transactions contemplated thereby or (ii) any claim, litigation, investigation or proceeding relating to any of the foregoing, whether or not any Indemnified Party is a party thereto, provided that such indemnity shall not, as to any Indemnified Party, be available to the extent that such losses, claims, damages, liabilities or related expenses are determined by a court of competent jurisdiction by final and nonappealable judgment to have resulted from the gross negligence or willful misconduct of such Indemnified Party.

(c) Any amounts payable as provided hereunder shall be additional Obligations secured hereby and by the other Loan Documents. The provisions of this Section 10 shall remain operative and in full force and effect regardless of the termination of this Agreement or any other Loan Document, the consummation of the transactions contemplated thereby, the repayment of any of the Obligations, the invalidity or unenforceability of any term or provision of this Agreement or any other Loan Document or any investigation made by or on behalf of Pledgee. All amounts due under this Section 10 shall be payable on demand therefor.

SECTION 11. Pledgee Appointed Attorney-In-Fact. Pledgor hereby appoints Pledgee the attorney-in-fact of Pledgor for the purpose of carrying out the provisions of this Agreement and taking any action and executing any instrument that Pledgee may deem reasonably necessary to accomplish the purposes hereof, which appointment is irrevocable and coupled with an interest. Without limiting the generality of the foregoing, Pledgee shall have the right, upon the occurrence and during the continuance of an Event of Default, with full power of substitution either in Pledgee's name or in the name of Pledgor, to ask for, demand, sue for, collect, receive and give acquittance for any and all monies due or to become due under and by virtue of any Pledged Collateral, to endorse checks, drafts, orders and other instruments for the payment of money payable to Pledgor representing any dividend or other distribution payable in respect of the Pledged Collateral or any part thereof or on account thereof and to give full discharge for the same, to settle, compromise, prosecute or defend any action, claim or proceeding with respect thereto, and to sell, assign, endorse, pledge, transfer and to make any agreement respecting, or otherwise deal with, the same; provided, however, that nothing herein contained shall be construed as requiring or obligating Pledgee to make any commitment or to make any inquiry as to the nature or sufficiency of any payment received by Pledgee, or to present or file any claim or notice, or to take any action with respect to the Pledged Collateral or any part thereof or the monies due or to become due in respect thereof or any property covered thereby. Pledgee shall be accountable only for amounts actually received as a result of the exercise of the powers granted to Pledgee herein, and neither Pledgee nor its shareholders, officers, directors, employees or agents shall be responsible to Pledgor for any act or failure to act hereunder, except for Pledgee's own gross negligence or willful misconduct.

SECTION 12. Pledgee May Perform. If Pledgor fails to perform any agreement contained herein, upon notice to Pledgor, Pledgee may itself perform, or cause performance of, such agreement, and the reasonable expenses of Pledgee actually incurred in connection therewith shall be payable by Pledgor under Section 10 hereof.

SECTION 13. Waivers; Amendment.

(a) No failure or delay of Pledgee in exercising any power or right hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any such right or power, or any abandonment or discontinuance of steps to enforce such a right or power, preclude any other or further exercise thereof or the exercise of any other right or power. The rights and remedies of Pledgee hereunder and under the other Loan Documents are cumulative and are not exclusive of any rights or remedies that they would otherwise have. No waiver of any provisions of this Agreement or consent to any departure by Pledgor therefrom shall in any event be effective unless the same shall be permitted by paragraph (b) below, and then such waiver or consent shall be effective only in the specific instance and for the purpose for which given. No notice or demand on Pledgor in any case shall entitle Pledgor to any other or further notice or demand in similar or other circumstances.

(b) Neither this Agreement nor any provision hereof may be waived, amended or modified except pursuant to a written agreement entered into between Pledgee and Pledgor with respect to which such waiver, amendment or modification is to apply.

SECTION 14. Securities Act, Etc. In view of the position of Pledgor in relation to the Pledged Securities, or because of other current or future circumstances, a question may arise under the Securities Act of 1933, as now or hereafter in effect, or any similar statute hereafter enacted analogous in purpose or effect (such Act and any such similar statute as from time to time in effect being called the “**Federal Securities Laws**”) with respect to any disposition of the Pledged Securities permitted hereunder. Pledgor understands that compliance with the Federal Securities Laws might limit the course of conduct of Pledgee if Pledgee were to attempt to dispose of all or any part of the Pledged Securities, and might also limit the extent to which or the manner in which any subsequent transferee of any Pledged Securities could dispose of the same. Similarly, there may be other legal restrictions or limitations affecting Pledgee in any attempt to dispose of all or part of the Pledged Securities under applicable Blue Sky or other state securities laws or similar laws analogous in purpose or effect. Pledgor recognizes that in light of such restrictions and limitations Pledgee may, with respect to any sale of the Pledged Securities, limit the purchasers to those who will agree, among other things, to acquire such Pledged Securities for their own account, for investment, and not with a view to the distribution or resale thereof. Pledgor acknowledges and agrees that in light of such restrictions and limitations, Pledgee, in its reasonable discretion, (a) may proceed to make such a sale whether or not a registration statement for the purpose of registering such Pledged Securities or part thereof shall have been filed under the Federal Securities Laws and (b) may approach and negotiate with a single potential purchaser to effect such sale. Pledgor acknowledges and agrees that any such sale might result in prices and other terms less favorable to the seller than if such sale were a public sale without such restrictions. In the event of any such sale, Pledgee shall incur no responsibility or liability for selling all or any part of the Pledged Securities at a price that Pledgee, in its reasonable discretion, may in good faith deem reasonable under the circumstances, notwithstanding the possibility that a substantially higher price might have been realized if the sale were deferred until after registration as aforesaid or if more than a single purchaser were approached. The provisions of this Section 14 will apply notwithstanding the existence of a public or private market upon which the quotations or sales prices may exceed substantially the price at which Pledgee sells.

SECTION 15. Termination or Release.

(a) This Agreement and the pledge and security interest created hereby shall terminate upon indefeasible full payment of the Obligations in accordance with the terms of the Loan Agreement.

(b) Upon termination of this Agreement or the security interest in any Pledged Collateral, Pledgee shall execute and deliver to Pledgor, at Pledgor’s expense, all appropriate documents which Pledgor shall reasonably request to evidence such termination. Any execution and delivery of termination statements or documents pursuant to this Section 15 shall be without recourse to or warranty by Pledgee.

SECTION 16. Notices. Notices and other communications provided for herein shall be sent in the manner and at the addresses set forth in, and otherwise in accordance with, Section 12.3 of the Loan Agreement.

SECTION 17. Further Assurances. Pledgor agrees to do such further acts and things, and to execute and deliver such additional conveyances, assignments, agreements and instruments, each in form and substance reasonably acceptable to Pledgor and Pledgee, as Pledgee may at any time reasonably request in connection with the administration and enforcement of this Agreement or with respect to the Pledged Collateral or any part thereof or in order better to assure and confirm unto Pledgee its rights and remedies hereunder.

SECTION 18. Successors and Assigns. The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns, except that Pledgor may not assign or otherwise transfer any of their rights or obligations hereunder without the prior written consent of Pledgee (and any attempted assignment or transfer by Pledgor without such consent shall be null and void). Nothing in this Agreement, expressed or implied, shall be construed to confer upon any person (other than the parties hereto and their respective successors and assigns permitted hereby) any legal or equitable right, remedy or claim under or by reason of this Agreement.

SECTION 19. Counterparts; Effectiveness. This Agreement may be executed in counterparts (and by different parties hereto on different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. This Agreement shall become effective as to Pledgor when a counterpart hereof executed on behalf of Pledgor shall have been delivered to Pledgee. Delivery of an executed counterpart of a signature page of this Agreement by telecopy or electronic mail shall be effective as delivery of a manually executed counterpart of this Agreement.

SECTION 20. Severability. Any provision of this Agreement held to be invalid, illegal or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such invalidity, illegality or unenforceability without affecting the validity, legality and enforceability of the remaining provisions hereof; and the invalidity of a particular provision in a particular jurisdiction shall not invalidate such provision in any other jurisdiction.

SECTION 21. Governing Law; Jurisdiction; Consent to Service of Process.

(a) This Agreement shall be construed in accordance with and governed by the law of the State of New York, without giving effect to any conflict of law principles.

(b) Pledgor hereby irrevocably and unconditionally submits, for itself and its property, to the nonexclusive jurisdiction of the Supreme Court of the State of New York sitting in New York County and of the United States District Court of the Southern District of New York, and any appellate court from any thereof, in any action or proceeding arising out of or relating to this Agreement, or for recognition or enforcement of any judgment, and each of the parties hereto hereby irrevocably and unconditionally agrees that all claims in respect of any such action or proceeding may be heard and determined in such New York State or, to the extent permitted by law, in such Federal court. Each of the parties hereto agrees that a final judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law.

(c) Pledgor hereby irrevocably and unconditionally waives, to the fullest extent it may legally and effectively do so, any objection which it may now or hereafter have to the laying of venue of any suit, action or proceeding arising out of or relating to this Agreement in any court referred to in paragraph (b) of this Section. Each of the parties hereto hereby irrevocably waives, to the fullest extent permitted by law, the defense of an inconvenient forum to the maintenance of such action or proceeding in any such court.

(d) Each party to this Agreement irrevocably consents to service of process in the manner provided for notices in Section 12.3 of the Loan Agreement. Nothing in this Agreement will affect the right of any party to this Agreement to serve process in any other manner permitted by law.

SECTION 22. WAIVER OF JURY TRIAL. EACH PARTY HERETO HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY). EACH PARTY HERETO (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

SECTION 23. Headings. Section headings used herein are for the purpose of reference only, are not part of this Agreement and are not to affect the construction of, or to be taken into consideration in interpreting this Agreement.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, Pledgor has caused this Agreement to be duly executed by its officer thereunto duly authorized as of the date and year first above written.

INDUSTRIAL SERVICES OF AMERICA, INC.

By: /s/ Todd L. Phillips

Todd L. Phillips, Chief Executive Officer,
President and Chief Financial Officer

Accepted and agreed to:

BANK OF AMERICA, N.A.

By: /s/ Steven Blumberg

Title: Senior Vice President

Address:

One Bryant Park
New York, New York 10036
Attn: Portfolio Manager

Schedule I to the Pledge Agreement

PLEDGED EQUITY INTERESTS

<u>Pledged Entity</u>	<u>Class of Stock or Membership Interests</u>	<u>Certificate Number(s)</u>	<u>Number of Shares</u>	<u>Percentage of Outstanding Shares</u>
ISA Indiana, Inc.	Capital Stock	1	1000	100.00%
ISA Logistics LLC	Membership Interest	N/A	N/A	100.00%
ISA Real Estate, LLC	Membership Interest	N/A	N/A	100.00%
ISA Indiana Real Estate, LLC	Membership Interest	N/A	N/A	100.00%
7021 Grade Lane LLC	Membership Interest	N/A	N/A	100.00%
7124 Grade Lane LLC	Membership Interest	N/A	N/A	100.00%
7200 Grade Lane LLC	Membership Interest	N/A	N/A	100.00%

ANNEX I
FORM OF SUPPLEMENT

SUPPLEMENT NO. __ TO THE PLEDGE AGREEMENT

DATED AS OF _____, 201__

WHEREAS, pursuant to that certain Pledge Agreement, dated as of November 9, 2018 (as the same has been, or may hereafter be, amended or supplemented from time to time, the “**Pledge Agreement**”) made by INDUSTRIAL SERVICES OF AMERICA, INC. (“**Pledgor**”) in favor of BANK OF AMERICA, N.A. (“**Pledgee**”), Pledgor has granted, pledged, hypothecated and transferred to Pledgee a security interest in all of Pledgor’s right, title and interest in, to and under the Pledged Collateral, all as more fully set forth in the Pledge Agreement. Capitalized terms used herein without definition shall have the meanings given to them in the Pledge Agreement;

A. WHEREAS, Pledgor has acquired or created additional Pledged Collateral since the date of execution of the Pledge Agreement and the most recent Supplement thereto and hold certain additional Pledged Collateral; and

B. WHEREAS, Schedule I to the Pledge Agreement does not reflect Pledged Collateral acquired or created by Pledgor since the date of execution of the Pledge Agreement and the most recent Supplement thereto.

THEREFORE,

To secure the prompt and complete payment and performance when due of the Obligations of Pledgor under the Loan Agreement and each of the other Loan Documents, to secure the performance and observance by Pledgor of all the agreements, covenants and provisions contained in the Loan Agreement and in the Loan Documents for the benefit of Pledgee, Pledgor does hereby grant to Pledgee a security interest in and to all of Pledgor’s right, title and interest in and to the Pledged Collateral being added to Schedule I to the Pledge Agreement below.

The Pledge Agreement is hereby supplemented, effective as of the date hereof, by amending Schedule I thereof so as to reflect all of the Pledged Collateral in and to which Pledgor has granted a security interest to Pledgee pursuant to the terms of the Pledge Agreement and the Loan Agreement.

The following Pledged Collateral is hereby added to Schedule I to the Pledge Agreement:

<u>Issuer</u>	<u>Certificate Number(s)</u>	<u>No. of Shares Owned</u>	<u>Class or Category</u>	<u>% Owned</u>
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Except as expressly supplemented hereby, the Pledge Agreement shall continue in full force and effect in accordance with the provisions thereof on the date hereof. As used in the Pledge Agreement, the terms “Agreement”, “this Agreement”, “this Pledge Agreement”, “herein”, “hereafter”, “hereto”, “hereof” and words of similar import, shall, unless the context otherwise requires, mean the Pledge Agreement as supplemented by this Supplement.

This Supplement shall be construed as supplemental to the Pledge Agreement and shall form a part thereof, and the Pledge Agreement and all documents contemplated thereby and any previously executed Supplements thereto, are each hereby incorporated by reference herein and confirmed and ratified by Pledgor.

This Supplement may be executed in counterparts (and by different parties hereto on different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. This Supplement shall become effective as to Pledgor when a counterpart hereof executed on behalf of Pledgor shall have been delivered to Pledgee. Delivery of an executed counterpart of a signature page of this Supplement by telecopy or electronic mail shall be effective as delivery of a manually executed counterpart of this Supplement.

The execution and filing of this Supplement, and the addition of the Pledged Collateral set forth herein are not intended by the parties to derogate from, or extinguish, any of the rights or remedies of Pledgee under (i) the Pledge Agreement and/or any agreement, amendment or supplement thereto or any other instrument executed by Pledgor or (ii) any financing statement, continuation statement, deed or charge or other instrument executed by Pledgor and heretofore filed in any state or county in the United States of America or elsewhere.

This Supplement shall be construed in accordance with and governed by the law of the State of New York.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, Pledgor has caused this Supplement No. ____ to the Pledge Agreement to be duly executed as of the date and year first written above.

INDUSTRIAL SERVICES OF AMERICA, INC.

By: _____

Name: _____

Title: _____

Accepted and agreed to:

BANK OF AMERICA, N.A.

By: _____

Name: _____

Title: _____

GUARANTY AGREEMENT

This Guaranty Agreement (as amended, amended and restated, supplemented or otherwise modified, renewed or replaced from time to time, this “**Guaranty Agreement**”), dated as of November 9, 2018, is executed by ISA INDIANA REAL ESTATE, LLC, a Kentucky limited liability company (“**ISA IN Real Estate**”), ISA LOGISTICS LLC, a Kentucky limited liability company (“**ISA Logistics**”), ISA INDIANA, INC., an Indiana corporation (“**ISA Indiana**”), ISA REAL ESTATE, LLC, a Kentucky limited liability company (“**ISA Real Estate**”), 7021 GRADE LANE LLC, a Kentucky limited liability company (“**7021 Grade Lane**” and, together with ISA IN Real Estate, ISA Logistics, ISA Indiana, and ISA Real Estate, individually and collectively, jointly and severally, the “**Guarantor**”) in favor of BANK OF AMERICA, N.A. (“**Lender**”).

RECITALS

WHEREAS, pursuant to that certain Loan and Security Agreement dated as of the date hereof by and among INDUSTRIAL SERVICES OF AMERICA, INC. a Florida corporation (“**ISA**”), 7124 GRADE LANE LLC, a Kentucky limited liability company (“**7124 Grade Lane**”) and 7200 GRADE LANE LLC, a Kentucky limited liability company (“**7200 Grade Lane**”; and together with ISA, each individually a “**Borrower**” and collectively, the “**Borrowers**”) and Lender (including all annexes, exhibits and schedules thereto, and as amended, amended and restated, supplemented and otherwise modified, renewed or replaced from time to time, the “**Loan Agreement**”), Lender has agreed to make loans and other financial accommodations to Borrower; and

WHEREAS, each Guarantor is an direct and/or indirect subsidiary or affiliate of Borrowers and, as a result thereof, Guarantor will benefit, directly or indirectly, from the credit facility and other financial accommodations provided to Borrower under the Loan Agreement; and

WHEREAS, it is a condition to the effectiveness of the Loan Agreement that this Guaranty Agreement be executed and delivered by the parties hereto.

NOW, THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Guarantor hereby agrees for the benefit of Lender as follows:

1. **DEFINITIONS.** Except as specifically defined in this Guaranty Agreement, capitalized terms used herein shall have the respective meanings given thereto in the Loan Agreement.

2. **GUARANTY.**

2.1 **Guaranty.**

(a) Each Guarantor unconditionally and irrevocably, and jointly and severally guarantees to Lender the due and punctual payment and performance of the Obligations (the “**Guaranteed Obligations**”). Each Guarantor further agrees that the Guaranteed Obligations may be extended or renewed, in whole or in part, without notice or further assent from it, and it will remain bound upon this Guaranty Agreement notwithstanding any extension or renewal of any Guaranteed Obligation.

(b) Each Guarantor, to the extent permitted by applicable law, waives (A)(i) presentation to, demand for payment from and protest to, as the case may be, Borrowers or any other guarantor of any of the Guaranteed Obligations; (ii) notice of protest for nonpayment, notice of acceleration and notice of intent to accelerate; and (iii) the future change to the time, manner or place of payment of, or in any other term of all or any part of the Obligations. The obligations of Guarantor hereunder shall not be affected by: (B) (i) the failure of Lender to assert any claim or demand or to exercise or enforce any right or remedy against Borrowers or any other guarantor of any of the Guaranteed Obligations under the provisions of the Loan Agreement or any other Loan Document or otherwise; (ii) any extension or renewal of any provision hereof or of the Loan Agreement or any of the Loan Documents; (iii) any rescission, waiver, compromise, acceleration, amendment or modification of any of the terms or provisions of the Loan Agreement or of any other Loan Document; (iv) the discharge or release by Lender of Guarantor from its Guaranteed Obligations (or any portion thereof) or any other guarantor of such guarantor’s obligations (or any portion thereof); or (v) the failure to perfect any security interest in or the release, exchange, waiver or foreclosure of any security held by Lender for the Guaranteed Obligations. Guarantor specifically acknowledges and agrees that but for this Guaranty and the waivers made by Guarantor, Lender would not extend financial accommodations to Borrowers.

(c) Guarantor further agrees that this Guaranty Agreement constitutes a guaranty of performance and of payment when due and not just of collection, and waives, to the fullest extent permitted by applicable law, any right to require that any resort be had by Lender to any security held for payment of the Guaranteed Obligations or to any balance of any deposit, account or credit on the books of Lender in favor of Borrowers or any other guarantor of any of the Guaranteed Obligations or to any other Person.

(d) Guarantor hereby expressly acknowledges that Lender shall have no responsibility to keep Guarantor informed of the financial condition of Borrowers or any other guarantor of any of the Guaranteed Obligations or of any circumstances affecting Borrowers' collateral or the ability of Borrowers to perform under the Loan Agreement.

(e) This Guaranty Agreement shall not be affected by the genuineness, validity, regularity or enforceability of the Guaranteed Obligations, or any other instrument evidencing any of the Guaranteed Obligations, or by the existence, validity, enforceability, perfection, or extent of any collateral therefor or by any other circumstance relating to the Guaranteed Obligations (other than final payment in full of the Guaranteed Obligations) which might otherwise constitute a defense to this Guaranty Agreement. Lender makes no representation or warranty in respect to any such circumstances and has no duty or responsibility whatsoever to Guarantor in respect to the management and maintenance of the Guaranteed Obligations or Borrowers' collateral.

2.2 No Impairment of Guaranty. The obligations of Guarantor hereunder shall not be subject to any reduction, limitation, impairment or termination for any reason, including, without limitation, any claim or waiver, release, surrender, alteration or compromise, and shall not be subject to any defense (other than by payment of the Guaranteed Obligations in full) or set-off, counterclaim, recoupment or termination whatsoever by reason of the invalidity, illegality or unenforceability of the Guaranteed Obligations or otherwise. Without limiting the generality of the foregoing, the obligations of Guarantor hereunder shall not be discharged or impaired or otherwise affected by the failure of Lender to assert any claim or demand or to enforce any remedy hereunder or under the Loan Agreement or any other Loan Document, by any waiver or delay, willful or otherwise, in the performance of the Guaranteed Obligations, or by any other act or thing or omission or delay to do any other act or thing which may or might in any manner or to any extent vary the risk of Guarantor or would otherwise operate as a discharge of Guarantor as a matter of law, unless and until the Guaranteed Obligations are paid in full.

2.3 Continuation and Reinstatement, etc. Guarantor further agrees that its guaranty hereunder shall continue to be effective or be reinstated, as the case may be, if at any time payment, or any part thereof, of principal of or interest on any Guaranteed Obligation is rescinded or must otherwise be restored by Lender upon the bankruptcy or other reorganization of Borrowers or any other guarantor of any of the Guaranteed Obligations or otherwise. In furtherance of the provisions of this Guaranty Agreement, and not in limitation of any other right which Lender may have at law or in equity against Borrowers or any other guarantor of any of the Guaranteed Obligations, by virtue hereof, upon failure of Borrower to pay any Obligation when and as the same shall become due, whether at maturity, by acceleration, after notice or otherwise, Guarantor hereby promises to and will, upon demand by Lender, forthwith pay or cause to be paid to Lender an amount equal to the unpaid amount of all Guaranteed Obligations arising in connection with the Loan Agreement, together with interest on the portion thereof that represents outstanding Obligations at the rate provided for in the Loan Agreement.

All rights of Guarantor against Borrowers or any other guarantor of the Obligations arising by way of right of subrogation or otherwise shall in all respects be subordinate and junior in right of payment to the prior payment in full of all the Guaranteed Obligations to Lender. In furtherance of the foregoing, until the Guaranteed Obligations have been paid in full, (i) Guarantor hereby postpones and agrees not to exercise any right of subrogation, contribution or indemnification Guarantor has or may have as against Borrowers or any other guarantor of the Obligations with respect to the Guaranteed Obligations; (ii) Guarantor hereby postpones and agrees not to exercise any right to proceed against Borrowers or any other Person now or hereafter liable on account of the Obligations for contribution, indemnity, reimbursement, or any other similar rights (irrespective of whether direct or indirect, liquidated or contingent) with respect to the Guaranteed Obligations; and (iii) Guarantor hereby postpones and agrees not to exercise any right it may have to proceed or to seek recourse against or with respect to any property or asset of Borrowers or any other Person now or hereafter liable on account of the Obligations in respect of the Guaranteed Obligations. If an amount shall be paid to Guarantor for the account of Borrowers in respect of the rights referred to in this paragraph, such amount shall be held in trust for the benefit of Lender to be credited and applied to the Guaranteed Obligations, whether matured or unmatured.

2.4 Limitation on Guaranteed Amount. Notwithstanding any other provision of this Guaranty Agreement, the amount guaranteed by Guarantor hereunder shall be limited to the extent, if any, required so that its obligations under this Guaranty Agreement shall not be rendered voidable or avoidable under Section 548 of Chapter 11 of the Bankruptcy Code or to being set aside or annulled under any applicable state law or foreign statute relating to fraud on creditors or under common law. In determining the limitations, if any, on the amount of Guarantor's obligations hereunder pursuant to the preceding sentence, any rights of subrogation or contribution which Guarantor may have under this Guaranty Agreement or applicable statute shall be taken into account.

3. REPRESENTATIONS AND WARRANTIES.

Guarantor makes the following representations and warranties, all of which shall survive the execution and delivery of the Loan Agreement and this Guaranty Agreement:

(i) the execution, delivery and performance of this Guaranty Agreement (a) to Guarantor's knowledge, will not violate any provision of applicable law, any order of any court or other agency of the United States or any state thereof, applicable to Guarantor or any of its properties or assets; (b) does not require the consent or approval of any Person or entity, including but not limited to any governmental authority, or any filing or registration of any kind except those already obtained; and (c) is the legal, valid and binding obligation of Guarantor enforceable against Guarantor in accordance with its terms, except to the extent that enforcement may be limited by applicable bankruptcy, insolvency and other similar laws affecting creditors' rights generally, and general principles of equity;

(ii) in executing and delivering this Guaranty Agreement, Guarantor has (a) without reliance on Lender or any information received from Lender and based upon such documents and information it deems appropriate, made an independent investigation of the transactions contemplated hereby and Borrowers, Borrowers' businesses, assets, operations, prospects and condition, financial or otherwise, and any circumstances which may bear upon such transactions, Borrowers or the obligations and risks undertaken herein with respect to the Guaranteed Obligations; (b) adequate means to obtain from Borrowers on a continuing basis information concerning Borrowers; (c) has full and complete access to the Loan Documents and any other documents executed in connection with the Loan Documents; and (d) not relied and will not rely upon any representations or warranties of Lender not embodied herein or any acts heretofore or hereafter taken by Lender (including but not limited to any review by Lender of the affairs of Borrowers);

(iii) the execution, delivery and performance of this Guaranty Agreement will not result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever upon any properties or assets of Guarantor other than pursuant to this Guaranty Agreement or the other Loan Documents to which it is a party; and

(iv) Guarantor (a) has received, or will receive, direct and/or indirect benefit from the making of the Loans to Borrowers; and (b) has received, or will receive, direct and/or indirect benefit from the making of this Guaranty Agreement with respect to the Guaranteed Obligations.

4. MISCELLANEOUS

4.1 **Notices.** All communications and notices hereunder shall be in writing and given as provided in Section 12.3 of the Loan Agreement, provided that all communications and notices hereunder to Guarantor shall be given to Guarantor at the address set forth on the signature page hereof.

4.2 **Binding Effect; Several Agreement; Assignments.** Whenever in this Guaranty Agreement any of the parties hereto is referred to, such reference shall be deemed to include the executors, administrators, successors and assigns of such party; and all covenants, promises and agreements by or on behalf of Guarantor that are contained in this Guaranty Agreement shall bind and inure to the benefit of each party hereto and their respective executors, administrators, successors and assigns. This Guaranty Agreement shall become effective as to Guarantor when a counterpart hereof executed on behalf of Guarantor shall have been delivered to Lender, and a counterpart shall have been executed on behalf of Lender, and thereafter shall be binding upon Guarantor and Lender and their respective executors, administrators, successors and assigns, and shall inure to the benefit of Guarantor, Lender, and their respective executors, administrators, successors and assigns, except that Guarantor shall not have the right to assign its rights or obligations hereunder or an interest herein (and any such attempted assignment shall be void).

4.3 **SERVICE OF PROCESS. GUARANTOR (I) HEREBY IRREVOCABLY SUBMITS TO THE JURISDICTION OF THE STATE COURTS OF THE STATE OF NEW YORK AND TO THE JURISDICTION OF THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK, FOR THE PURPOSE OF ANY SUIT, ACTION OR OTHER PROCEEDING ARISING OUT OF OR BASED UPON THIS GUARANTY AGREEMENT, OR THE SUBJECT MATTER HEREOF BROUGHT BY LENDER OR ITS SUCCESSORS AND ASSIGNS, (II) HEREBY WAIVES, AND AGREES NOT TO ASSERT, BY WAY OF MOTION, AS A DEFENSE, OR OTHERWISE, IN ANY SUCH SUIT, ACTION OR PROCEEDING, ANY CLAIM THAT IT IS NOT SUBJECT PERSONALLY TO THE JURISDICTION OF THE ABOVE-NAMED COURTS, THAT ITS PROPERTY IS EXEMPT OR IMMUNE FROM ATTACHMENT OR EXECUTION, THAT THE SUIT, ACTION OR PROCEEDING IS BROUGHT IN AN INCONVENIENT FORUM, THAT THE VENUE OF THE SUIT, ACTION OR PROCEEDING IS IMPROPER, OR THAT THIS GUARANTY AGREEMENT OR THE SUBJECT MATTER HEREOF OR THEREOF MAY NOT BE ENFORCED IN OR BY SUCH COURT, AND (III) HEREBY AGREES NOT TO ASSERT ANY OFFSETS OR COUNTERCLAIMS (OTHER THAN COMPULSORY COUNTERCLAIMS) IN ANY SUCH ACTION, SUIT OR PROCEEDING. GUARANTOR HEREBY CONSENTS TO SERVICE OF PROCESS IN THE MANNER PROVIDED FOR NOTICES IN SECTION 4.1 HEREOF, PROVIDED, HOWEVER, THAT NOTHING IN THIS GUARANTY AGREEMENT WILL AFFECT THE RIGHT OF ANY PARTY TO SERVE PROCESS IN ANY OTHER MANNER PERMITTED BY APPLICABLE LAW. A FINAL JUDGMENT AGAINST GUARANTOR IN ANY SUCH ACTION, SUIT OR PROCEEDING SHALL BE CONCLUSIVE, AND MAY BE ENFORCED IN OTHER JURISDICTIONS (X) BY SUIT, ACTION OR PROCEEDING ON THE JUDGMENT, A CERTIFIED OR TRUE COPY OF WHICH SHALL BE CONCLUSIVE EVIDENCE OF THE FACT AND OF THE AMOUNT OF ANY INDEBTEDNESS OR LIABILITY OF GUARANTOR OR (Y) IN ANY OTHER MANNER PROVIDED BY OR PURSUANT TO THE LAWS OF SUCH OTHER JURISDICTION, PROVIDED, HOWEVER, THAT LENDER MAY AT ITS OPTION BRING SUIT, OR INSTITUTE OTHER JUDICIAL PROCEEDINGS AGAINST GUARANTOR OR ANY OF ITS ASSETS IN ANY STATE OR FEDERAL COURT OF THE UNITED STATES OR OF ANY COUNTRY OR PLACE WHERE GUARANTOR OR SUCH ASSETS MAY BE FOUND.**

4.4 **GOVERNING LAW. THIS GUARANTY AGREEMENT SHALL BE CONSTRUED IN ACCORDANCE WITH AND GOVERNED BY THE LAWS OF THE STATE OF NEW YORK (BUT WITHOUT GIVING EFFECT TO PRINCIPLES OF CONFLICT OF LAWS).**

4.5 **No Waiver, etc.** Neither a failure nor a delay on the part of Lender in exercising any right, power or privilege under this Guaranty Agreement shall operate as a waiver thereof, nor shall a single or partial exercise thereof preclude any other or further exercise of any right, power or privilege. The rights, remedies and benefits of Lender expressly specified herein are cumulative and not exclusive of any other rights, remedies or benefits which Lender may have under this Guaranty Agreement, at law, in equity, by statute, or otherwise.

4.6 **Modification, etc.** No modification, amendment or waiver of any provision of this Guaranty Agreement, nor the consent to any departure by Guarantor therefrom, shall in any event be effective unless the same shall be in writing and signed by Lender, and then such waiver or consent shall be effective only in the specific instance and for the purpose for which given. No notice to or demand on Guarantor in any case shall entitle Guarantor to any other or further notice or demand in the same, similar or other circumstances.

4.7 **Severability.** If any one or more of the provisions contained in this Guaranty Agreement should be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein shall in no way be affected or impaired thereby.

4.8 **Headings.** Section headings used herein are for convenience of reference only and are not to affect the construction of, or be taken into consideration in interpreting, this Guaranty Agreement.

4.9 **Counterparts.** This Guaranty Agreement may be executed in counterparts, each of which shall constitute an original, but all of which when taken to together shall constitute a single contract, and shall become effective as provided in Section 4.2. Delivery of an executed signature page to this Guaranty Agreement by facsimile or other electronic transmission shall be as effective as delivery of a manually executed counterpart to this Guaranty Agreement.

4.10 WAIVER OF JURY TRIAL. TO THE EXTENT NOT PROHIBITED BY APPLICABLE LAW WHICH CANNOT BE WAIVED, GUARANTOR HEREBY WAIVES AND COVENANTS (WHICH LENDER HEREBY ALSO WAIVES AND COVENANTS) THAT IT WILL NOT ASSERT (WHETHER AS PLAINTIFF, DEFENDANT OR OTHERWISE), ANY RIGHT TO TRIAL BY JURY IN ANY FORUM IN RESPECT OF ANY ISSUE, CLAIM, DEMAND, ACTION, OR CAUSE OF ACTION ARISING OUT OF OR BASED UPON THIS GUARANTY AGREEMENT OR THE SUBJECT MATTER HEREOF, IN EACH CASE WHETHER NOW EXISTING OR HEREAFTER ARISING OR WHETHER IN CONTRACT OR TORT OR OTHERWISE. GUARANTOR ACKNOWLEDGES THAT IT HAS BEEN INFORMED BY LENDER THAT THE PROVISIONS OF THIS SECTION 4.10 CONSTITUTE A MATERIAL INDUCEMENT UPON WHICH LENDER HAS RELIED, IS RELYING AND WILL RELY IN ENTERING INTO THIS GUARANTY AGREEMENT. GUARANTOR AND LENDER MAY FILE AN ORIGINAL COUNTERPART OR A COPY OF THIS SECTION 4.10 WITH ANY COURT AS WRITTEN EVIDENCE OF THE CONSENT OF GUARANTOR TO THE WAIVER OF ITS RIGHTS TO TRIAL BY JURY.

4.11 **Right of Setoff.** If an Event of Default under the Loan Agreement shall have occurred and be continuing, Lender is hereby authorized at any time and from time to time, to the fullest extent permitted by law, to set off and apply any and all deposits (general or special, time or demand, provisional or final) at any time held and other indebtedness at any time owing by Lender to or for the credit or the account of Guarantor against any or all of the obligations of Guarantor now or hereafter existing under this Guaranty Agreement and the other Loan Documents held by Lender, irrespective of whether or not Lender shall have made any demand under this Guaranty Agreement or any other Loan Document and although such obligations may be unmatured. The rights of Lender under this Section 4.11 are in addition to the other rights and remedies (including other rights of setoff) which Lender may have.

MORTGAGE, ASSIGNMENT OF LEASES AND RENTS,
SECURITY AGREEMENT AND FIXTURE FILING

by and from

7200 GRADE LANE LLC

to

BANK OF AMERICA, N.A.,

as Lender

Dated as of November 9, 2018

COLLATERAL IS AND INCLUDES FIXTURES

THIS DOCUMENT SERVES AS A FINANCING STATEMENT FILED AS A FIXTURE FILING UNDER THE
KENTUCKY UNIFORM COMMERCIAL CODE

RECORDING REQUESTED BY,
AND WHEN RECORDED RETURN TO:

Otterbourg P.C.
230 Park Avenue
New York, New York 10169
Attn: Oleg R. Sabel, Esq.

**MORTGAGE, ASSIGNMENT OF LEASES AND RENTS,
SECURITY AGREEMENT AND FIXTURE FILING**

THIS MORTGAGE, ASSIGNMENT OF LEASES AND RENTS, SECURITY AGREEMENT AND FIXTURE FILING (“Mortgage”), is made and executed as of the 9th day of November, 2018, by 7200 GRADE LANE LLC, a Kentucky limited liability company, with an office located at 7100 Grade Lane, Bldg. 1, Louisville, KY 40213 (“Mortgagor”) to BANK OF AMERICA, N.A., having an office at One Bryant Park, New York, New York 10036, (“Mortgagee”).

All capitalized terms used but not otherwise defined herein shall have the same meanings ascribed to such terms, respectively, in the Loan Agreement described below.

WITNESSETH:

WHEREAS, Mortgagor is the owner of certain fee simple interests in real property and the buildings and improvements thereon, together with related rights as further described herein; and

WHEREAS, Borrowers (including Mortgagor) and Mortgagee have entered into or are about to enter into financing arrangements pursuant to which the Mortgagee may make loans and advances and provide other financial accommodations (the “Credit Facility”) to Borrowers as set forth in the Loan and Security Agreement, dated as of the date hereof, by and among Borrowers and Mortgagee (as the same now exists or may hereafter be amended, modified, supplemented, extended, renewed, restated or replaced, the “Loan Agreement”) and the other Loan Documents, which Loan Agreement provides that, among other things, that the Mortgagee provide to Borrowers a Credit Facility in an aggregate principal sum not to exceed TWELVE MILLION FIVE HUNDRED THOUSAND DOLLARS (\$12,500,000.00); and

WHEREAS, Mortgagor, by this Mortgage, intends to secure and does hereby secure all existing and future indebtedness and other obligations of Borrowers to Mortgagee as hereinafter further described, including, without limitation, (a) all existing and future indebtedness, liabilities and obligations of Borrowers to Mortgagee under the Loan Agreement up to the aggregate principal amount not to exceed TWELVE MILLION FIVE HUNDRED THOUSAND DOLLARS (\$12,500,000.00) at any time and from time to time outstanding and (b) all other existing and future indebtedness, obligations and liabilities of Borrowers to Mortgagee, including, without limitation, all interest on such principal sum, costs, expenses and attorneys’ fees accruing or incurred in connection therewith, as hereinafter further described.

NOW, WITNESSETH, that the foregoing recitals being hereinafter deemed incorporated by reference and made a part hereof as if again set forth at length, Mortgagor, in consideration of the Loan Agreement, the Loan Documents and the extension of credit therein, and to secure the payment and performance of the indebtedness evidenced by the Loan Agreement and other obligations hereinafter set forth, including the performance of the covenants and agreements herein contained and in consideration of the further sum of One (\$1.00) Dollar unto Mortgagor in hand well and truly paid by Mortgagee at or before the sealing and delivery hereof, the receipt whereof is hereby acknowledged, and intending to be legally and firmly bound hereby, has mortgaged, pledged, warranted, gave, granted, bargained, assigned, sold, alienated, released, conveyed and confirmed, and by these presents does mortgage, pledge, warrant, give, grant, bargain, assign, sell, alien, release, convey and confirm unto Mortgagee, its successors and assigns, and grants to Mortgagee, its successors and assigns, a mortgage and security interest in all right, title and interest of Mortgagor in and to the following property, rights and interests and the proceeds thereof (hereinafter collectively referred to as the “Property”):

A. The real property described on **Exhibit A** attached hereto and made a part hereof (the “Land”) and all additional lands, estates and development rights hereafter acquired by Mortgagor for use in connection with the Land and the development of the Land and all additional lands and estates therein which may, from time to time, by supplemental mortgage or otherwise, be expressly made subject to the lien of this Mortgage; and

B. TOGETHER WITH (1) all the buildings, structures, additions, improvements, appurtenances, hereditaments and tenements now or hereafter located on or relating to the Land and (2) all and singular the facilities, fixtures, trade fixtures, machinery, equipment, apparatus, installations, furniture, equipment, and other property of every kind and nature whatsoever owned by Mortgagor, or in which Mortgagor has or shall have an interest, now or hereafter located in or upon, or attached to the Land, or appurtenances thereto, or used or usable in connection with the Land, Improvements, Easements or the operation of the business conducted thereon (all such machinery, equipment, fixtures and other property and the proceeds thereof hereinafter collectively referred to as the “Equipment”), including, but not limited to, all heating apparatus, boilers, generators, furniture, plumbing, lighting fixtures, laundry, ventilating, air-conditioning and refrigerating equipment, all awnings, blinds, screens, storm sash, pumping equipment, electrical equipment including transformers, and all fixtures, appliances, property and equipment of every kind and description now or hereafter installed in or used in connection with, or located on the aforesaid premises, or used in the manufacturing or other operations of the plant, business or dwelling situated thereon, and further including all replacements, accessions, renewals, additions and substitutions to the foregoing and all of the right, title and interest of Mortgagor in and to any such personal property or fixtures, which, to the fullest extent permitted by law, shall be conclusively deemed fixtures and a part of the real property encumbered hereby (the “Improvements”); and

C. TOGETHER WITH all and singular the streets, easements, rights of way, gores of land, lots, parcels, alleys, passages, ways, waters, watercourses, development rights, air rights, rights, liberties, privileges, servitudes, tenements, hereditaments, appurtenances, alterations and partitions whatsoever, to any of the property described in Paragraphs A and B hereof now or hereafter belonging or in any wise appertaining to any of the property described in Paragraphs A and B hereof, or which shall hereafter in any way belong, relate or be appurtenant thereto, whether now owned or hereafter acquired by Mortgagor (the “Easements”); and

D. TOGETHER WITH (1) all of the estate, right, title and interest of Mortgagor of, in and to all judgments, insurance proceeds, awards of damages and settlements hereafter made resulting from condemnation proceedings or the taking of the property described in Paragraphs A, B and C hereof or any part thereof under the power of eminent domain, or for any damage (whether caused by such taking or otherwise) to the property described in Paragraphs A, B and C hereof or any part thereof, or to any rights appurtenant thereto, and all proceeds of any sale or other disposition of the property described in Paragraphs A, B and C hereof or any part thereof; and Mortgagee is hereby authorized to collect and receive said awards and proceeds and to give proper receipts and acquittances therefor, and, if it so elects, to apply the same toward the payment of the Obligations (as hereinafter defined), notwithstanding the fact that the amount owing thereon may not then be due and payable, and Mortgagor hereby covenants and agrees upon reasonable request, to make, execute and deliver any and all assignments and other instruments sufficient for the purpose of further evidencing the assignment of the aforesaid awards to Mortgagee, its successors, or assigns, free, clear and discharged of any and all encumbrances of any kind or nature whatsoever, each in form and substance reasonably acceptable to Mortgagor and Mortgagee; and (2) all contract rights, general intangibles, actions and rights in action, including, without limitation all rights to insurance proceeds and unearned premiums arising from or relating to the property described in Paragraphs A, B and C above; and (3) all proceeds, products, replacements, additions, substitutions, renewals and accessions of and to the property described in Paragraphs A, B and C; and

E. TOGETHER WITH all right, title and interest of the Mortgagor under all leases, tenancies, licenses, lettings, contracts and other agreements, written or otherwise, granting occupancy or use of any of the property described in Paragraphs A, B and C hereof, over the Property or any portion thereof, now executed or entered into subsequent hereto (the "Leases"), together with all security therefor, deposits relating thereto and all monies payable thereunder and all books and records which contain payments under the Leases, and the right to receive and apply to the Obligations, all rental income, receipts, revenues, issues, profits, damages and awards now due or which may hereafter become due subject, however, to the conditional permission herein given to Mortgagor to collect the rents, income and other benefits arising under any such Lease. Mortgagee shall have the right, following the occurrence and during the continuance of an Event of Default (as hereinafter defined), to notify any lessee of the rights of Mortgagee as provided in this Paragraph; and

F. TOGETHER WITH all rents, income, issues, profits and other benefits to which Mortgagor may now or hereafter be entitled from any of the property described in Paragraphs A, B and C hereof, and other Property (hereinafter collectively referred to as the "Rents"); provided however, that a license is hereby given to Mortgagor so long as no Event of Default has occurred and continues hereunder, to collect and use such rents, income, issues, and other benefits as they become due and payable, but not in advance thereof. Upon the occurrence and during the continuance of an Event of Default, the permission hereby given to Mortgagor to collect and use such rent, income, issues and other benefits from any of the property described in Paragraphs A, B and C hereof and other Property shall terminate and such license shall not be reinstated until a cure of such Event of Default has occurred, as determined by Mortgagee by written notice to Mortgagor thereof. The foregoing provision hereof shall constitute an absolute and present assignment of the rents, income, issues, profits and other benefits from the Land, Improvements, Easements and other Property, subject, however to the conditional license given to Mortgagor to collect and use such rents, income, issues and benefits as herein provided; and the existence or exercise of such right of Mortgagor shall not operate to subordinate this assignment to any subsequent assignment, in whole or in part, by Mortgagor, and any such subsequent assignment shall be subject to the rights of Mortgagee hereunder.

G. TOGETHER WITH all products and proceeds of the foregoing, in any form.

TO HAVE AND TO HOLD the Property and all parts thereof unto Mortgagee, its successors and assigns, to and for the proper use and benefit of Mortgagee, its successors and assigns, forever subject to Permitted Liens and to satisfaction of the Obligations as provided in the Loan Agreement.

This Mortgage is executed and delivered by Mortgagor to secure the following obligations (collectively referred to herein as the "Obligations"): (a) all Loans, Letters of Credit and all other obligations, liabilities and indebtedness of every kind, nature and description owing by any or all of Borrowers to Mortgagee, including principal, interest, charges, fees, costs and expenses, however evidenced, whether as principal, surety, endorser, guarantor or otherwise, arising under the Loan Agreement, this Mortgage or any of the other Loan Documents or on account of any Letter of Credit, whether now existing or hereafter arising, whether arising before, during or after the initial or any renewal term of the Loan Agreement or after the commencement of any case with respect to a Borrower under the United States Bankruptcy Code or any similar statute (including the payment of interest and other amounts which would accrue and become due but for the commencement of such case, whether or not such amounts are allowed or allowable in whole or in part in such case), whether direct or indirect, absolute or contingent, joint or several, due or not due, primary or secondary, liquidated or unliquidated, or secured or unsecured, (b) all obligations, liabilities and indebtedness of every kind, nature and description owing by any or all of Borrowers or Guarantors to Mortgagee arising under or pursuant to any Bank Products, whether now existing or hereafter arising, but in the case of this clause (b) only to the extent set forth in the Loan Agreement and (c) any amount that may be advanced by Mortgagee in protection of the Property or this Mortgage.

Without limiting the generality of the foregoing, the Obligations include, without limitation:

(A) all obligations, liabilities and indebtedness of Borrowers arising pursuant to the Revolving Loans (involving advances, repayments and readvances), and the Letters of Credit to or for the account of or otherwise owed by Borrowers and Term Loans;

(B) all obligations, liabilities and indebtedness of Borrowers to Mortgagee arising under or pursuant to any Bank Products, whether now existing or hereafter arising (subject to the conditions and limitations set forth in the Loan Agreement), and

(C) all interest, costs and expenses (including reasonable attorneys' fees and expenses), other charges and fees provided to be paid by Mortgagor herein and in the other Loan Documents, advances made by Mortgagee to protect or preserve the Property, any part thereof, or the interests of Mortgagee therein or for payment of taxes, assessments, insurance premiums and other amounts as provided therein and herein;

provided, however, that the maximum principal amount of the Obligations at any time secured hereby shall be the principal sum not to exceed TWELVE MILLION FIVE HUNDRED THOUSAND DOLLARS (\$12,500,000.00), including present and future obligations, at any time and from time to time outstanding, plus all interest under the Loan Documents, costs and expenses (including reasonable attorneys' fees and expenses), other charges and fees provided to be paid in the Loan Documents and herein, advances made by Mortgagee to protect or preserve the Property, any part thereof, or the interests of Mortgagee therein or for payment of taxes, assessments, insurance premiums and other amounts as provided therein and herein. In no event shall the limitation on the principal amount of Obligations secured hereby limit or impair the security interests and liens of Mortgagee in property of Mortgagor as provided under the other Loan Documents.

PROVIDED ALWAYS, that upon termination of the Commitments, payment and satisfaction of all Obligations in full, termination, collateralization or expiration of all Letters of Credit and Bank Product collateralization, then the estate hereby granted shall cease, terminate and become void, but otherwise shall remain in full force and effect. Upon satisfaction of the foregoing conditions, Mortgagee shall execute and deliver such discharges as may be required to release the lien of this Mortgage.

MORTGAGOR DOES HEREBY FURTHER COVENANT AND AGREE AS FOLLOWS:

1. Payment and Performance. Mortgagor shall perform and observe and shall comply with all provisions of the Loan Documents and shall promptly pay to the Mortgagee all Obligations required to be paid by Mortgagor under the Loan Documents when payment shall become due.

2. Status of Title. General Representations, Warranties and Covenants. Mortgagor represents, warrants and covenants that (a) Mortgagor is and at all times shall continue to be lawfully seized of an indefeasible estate in fee simple in its portion of the Land and the buildings and improvements thereon, has good and absolute title to the Property and has good right, full power and lawful authority to convey, assign, mortgage or encumber the Property as provided herein; (b) the Property is and at all times shall continue to be free and clear of all liens, security interests, and encumbrances whatsoever, except for Permitted Liens; (c) Mortgagor will maintain and preserve the lien of this Mortgage as a first and prior lien, subject only to the Permitted Liens; and (d) this Mortgage is and at all times shall continue to constitute legal, valid and binding obligations of Mortgagor, enforceable in accordance with the terms contained herein (except as enforceability may be limited by bankruptcy, insolvency or similar laws affecting the enforcement of creditors' rights generally), and the execution and delivery hereof by Mortgagor does not contravene any contract or agreement to which Mortgagor is a party or by which Mortgagor or any of its properties may be bound and, to Mortgagor's knowledge, does not contravene any law, order, decree, rule or regulation to which Mortgagor is subject.

3. Compliance with Laws. Mortgagor represents, warrants and covenants that it is and will continue to be in material compliance with laws, per the terms and conditions of the Loan Agreement, in (but not limited to) Section 9.1.13 of the Loan Agreement.

4. Taxes and Other Charges.

(a) Mortgagor shall pay, or cause to be paid, prior to the time any interest or penalty may be imposed due to late payment, all taxes, assessments, water rates, sewer rentals, dues, charges, fees, levies, fines, impositions, liabilities, obligations and encumbrances and other charges of every nature and to whomever assessed that may now or hereafter be levied or assessed upon the Property or any part thereof, or upon Mortgagor's interest in the Rents thereof, or upon this Mortgage, the Obligations or upon or against the interest of Mortgagee in the Property, whether any or all of such items be levied directly or indirectly, as well as income taxes, assessments and other governmental charges levied and imposed by the United States of America or any state, county, municipality or other taxing authority upon or against Mortgagor or in respect of the Property (all of the foregoing is collectively referred to as "Taxes" or individually, as a "Tax"), and Mortgagor shall deliver to Mortgagee receipted bills evidencing payment therefor. Notwithstanding anything to the contrary contained herein, Mortgagor shall have the right, at its own expense with prior written notice to Mortgagee, by appropriate proceedings duly instituted and diligently prosecuted, to contest in good faith the validity or amount of any such Taxes in the manner provided by law, in which event, Mortgagor shall:

(i) pay in full, under protest in the manner provided by law, any Tax that Mortgagor may desire to contest,
or

(ii) withhold the payment thereof, if contest of any Tax may be made without the payment thereof; provided, however, that:

(A) such contest may be pursued at all times without Mortgagor risking the sale or forfeiture of the Property or any part thereof, or any interest therein, to satisfy such Tax;

(B) Mortgagor has, prior to the date the amount of such Tax shall be increased by reason of interest, penalties or costs, notified Mortgagee in writing of the intention of Mortgagor to contest the same;

(C) Mortgagor shall have furnished Mortgagee, from time to time as Mortgagee may reasonably request, such security or bond or indemnification satisfactory to Mortgagee for the final payment and discharge thereof; and

(D) in the event of a ruling or adjudication adverse to Mortgagor, Mortgagor shall promptly pay such Tax, plus any interest, penalty or additional charge thereon; and

(E) all costs and expenses incidental to any such contest shall be paid by Mortgagor.

(b) Notwithstanding anything to the contrary contained herein, in order to more fully protect the security afforded hereby, at Mortgagee's request and after the occurrence and during the continuance of an Event of Default, Mortgagor shall pay to Mortgagee (or, at its option, Mortgagee may charge any account of Mortgagor or any of its affiliates maintained with Mortgagee or establish a reserve against loans otherwise available to Mortgagor or its affiliates) together with, and in addition to the periodic installments of principal and interest payable on the Obligations, a sum equal to one-twelfth (1/12) of the annual Taxes, municipal water rates, sewer rents and assessments, if any, levied or to be levied against the Property and of the fire and other hazard insurance premiums next becoming due (all hereinafter referred to as the "Charges") all as estimated by Mortgagee, so that Mortgagee shall have sufficient funds to pay the Charges on the first (1st) day of the month preceding the month in which they become due. If, from time to time, Mortgagee shall determine that the balance of the funds held by it to pay the Charges is or will be insufficient to pay any of the Charges when the same shall become due, Mortgagor shall pay to Mortgagee, on demand, any amount necessary to remedy any deficiency. Mortgagee shall hold all amounts to pay the Charges before same become delinquent, with the right, however, of Mortgagee to apply, after the occurrence and during the continuance of an Event of Default, any sum so received as hereinafter provided. If, after the occurrence and during the continuance of an Event of Default, there is a public sale of the Property covered hereby, or if Mortgagee acquires any of the Property otherwise after the occurrence and during the continuance of an Event of Default, then Mortgagee shall have the right to apply the balance then remaining in the funds accumulated to pay the Charges, either as a credit against the balance of the Obligations then remaining unpaid or to the payment of any of the Charges without any obligation to account therefor to Mortgagor. The funds held by Mortgagee under this Section may be commingled with the general funds of Mortgagee who shall not be liable for interest thereon. Nothing contained in this Section shall be deemed to limit Mortgagee's right under the Loan Agreement to establish, at any time while the Obligations remain outstanding, a reserve to pay the Charges against loans otherwise available to the Mortgagor, it being understood and agreed by Mortgagor that the right of Mortgagee to establish an escrow under this Section shall be an alternative to and not in lieu of Mortgagee's right to establish such a reserve.

(c) Mortgagor shall not claim, demand or be entitled to receive any credit against the principal or interest payable on the Obligations for the taxes, assessments or similar impositions assessed against the Property or any part thereof or that are applicable to the Obligations or to the interest in the Property of Mortgagee. No deduction shall be claimed from the taxable value of the Property or any part thereof by reason of the Obligations, this Mortgage or any other instrument securing the Obligations.

5. Mechanics' and Other Liens. Mortgagor shall not permit any mechanics' or other liens, other than Permitted Liens, to be filed or to exist against the Property by reason of work, labor, services or materials supplied or claimed to have been supplied to, for or in connection with the Property or to Mortgagor or anyone holding the Property or any part thereof through or under Mortgagor; provided, however, that if any such lien shall at any time be filed, Mortgagor shall, within ten (10) days after notice of the filing thereof but subject to the right of contest as set forth herein, cause the same to be discharged of record by payment, deposit, bond, order of a court of competent jurisdiction or otherwise. Notwithstanding anything to the contrary contained herein, Mortgagor shall have the right, at its own expense and with written notice to Mortgagee, to contest any such liens if Properly Contested (as defined in the Loan Agreement).

6. Insurance. Mortgagor shall, at all times, maintain insurance in accordance with the terms and conditions of the Loan Agreement, specifically, but not limited, to Sections 8.6.2 and 10.1.7 of the Loan Agreement.

7. Eminent Domain. Mortgagor, within seven (7) days of obtaining knowledge of the institution of any eminent domain or other proceedings for the condemnation of the Property, or any portion thereof, shall notify Mortgagee of the pendency of such proceedings. Subject to Section 8.6.2 of the Loan Agreement, Mortgagee shall be entitled to all compensation awards, damages, claims, rights of action and proceeds of, or on account of, any damage or taking through eminent domain or other condemnation proceedings and is hereby authorized, at its option, to commence, appear in and prosecute in its own or Mortgagor's name any action or proceeding relating to eminent domain or condemnation and to settle or compromise any claim in connection therewith, with the consent of Mortgagor. Subject to Section 8.6.2 of the Loan Agreement, all such compensation awards, damages, claims, rights of action and proceeds, and any other payments or relief, and the right thereto, are included in the Property and Mortgagee, after deducting therefrom all its reasonable expenses actually incurred, including reasonable attorneys' fees and expenses, may release any monies received by it to Mortgagor without affecting the lien of this Mortgage or may apply the same, in such manner as Mortgagee shall determine, to the reduction of the Obligations. Subject to applicable law, any balance of such monies then remaining shall be paid to Mortgagor. Mortgagor agrees to execute such further assignments of any compensation awards, damages, claims, rights of action and proceeds as Mortgagee may reasonably require, each in form and substance reasonably acceptable to Mortgagor and Mortgagee. Notwithstanding any such condemnation, Mortgagor shall continue to pay interest on the entire unpaid principal amount of the Obligations. If prior to the receipt by Mortgagee of such award or payment the Property shall have been sold on foreclosure of this Mortgage, Mortgagee shall have the right to receive said award or payment to the extent of any deficiency found to be due upon such sale, with legal interest thereon, whether or not a deficiency judgment on this Mortgage shall have been sought or recovered or denied, and reasonable attorneys' fees, costs and disbursements incurred by Mortgagee in connection with the collection of such award or payment.

8. Care of Property.

(a) Mortgagor shall preserve and maintain, or cause to be preserved and maintained, the Property, including all appurtenances thereto, in good and substantial repair and condition, reasonable wear and tear and damage from casualty excepted, and in material compliance with the requirements, if any, of the Permitted Liens, at its own cost, and will from time to time make, or cause to be made, all repairs, replacements, renewals and payments necessary to continue to maintain the Property in such state of repair, condition and compliance. Mortgagor shall not permit, commit or suffer any material waste, impairment or deterioration of the Property or of any part thereof, reasonable wear and tear excepted, and will not take any action which will increase the risk of fire or other hazard to the Property or to any part thereof.

(b) Except as otherwise provided in this Mortgage or the Loan Agreement, no part of the Property shall be removed, demolished or altered, without the prior written consent of Mortgagee. Mortgagor shall have the right, without such consent, to remove and dispose of free from the lien of this Mortgage any part of the Property consisting of equipment and fixtures as from time to time may become worn out or obsolete, provided, that, either simultaneously with or prior to such removal, any such property shall be replaced with other property of equal utility and of a value at least equal to that of the replaced equipment or fixtures when first acquired and free from any security interest of any other person, except as otherwise provided in the Loan Agreement. Any such substituted property shall be deemed to be part of the Property and shall be subject to the lien of this Mortgage.

(c) Mortgagee may enter upon and inspect the Property, prior to the occurrence of an Event of Default, during reasonable times, upon reasonable notice, and after the occurrence and during the continuance of an Event of Default, at any time, or in the case of emergency, at any time during the term of this Mortgage.

(d) If any part of the Property shall be lost, damaged or destroyed by fire or any other cause, Mortgagor shall give written notice thereof to Mortgagee within seven (7) days of such event. The insurance proceeds payable in connection with any such event shall be applied in accordance with Section 8.6.2 of the Loan Agreement.

9. Rents and Leases.

(a) Subject to the terms of this Section and Paragraph E of the granting clauses above, Mortgagee waives the right to enter the Property for the purpose of collecting the Rents thereon, and the right to collect the Rents. Mortgagor shall hold the current month's Rents, or an amount sufficient to discharge all current sums due on the Obligations, in trust for use in the payment of the Obligations. The right of Mortgagor to collect the Rents may be revoked by Mortgagee upon the occurrence and during the continuance of any Event of Default by Mortgagor under the terms of this Mortgage by giving notice of such revocation to Mortgagor. Following such notice, Mortgagee may retain and apply the Rents toward payment of the Obligations in such priority and proportions as Mortgagee, in its discretion, shall deem proper.

(b) Mortgagor shall not, without the prior written consent of Mortgagee, which shall not be unreasonably withheld, conditioned or delayed, make or suffer to be made, any Leases or materially amend, cancel, modify, accept the surrender of, subordinate, accelerate the payment of rents to, or materially adversely change the terms of any renewal option of any Leases or accept prepayments of installments of Rent for a period of more than one (1) month in advance (except that Mortgagor may accept security deposits in respect of the Leases in excess of such amount) or further assign the whole or any part of the Rents or permit or suffer an assignment or sublease. In respect of any Lease relating to the Property, Mortgagor will (i) fulfill or perform each and every provision thereof on its part to be fulfilled or performed; (ii) promptly send copies of all notices of default which it shall send or receive thereunder to Mortgagee, and (iii) enforce, short of termination thereof, the performance or observance of the provisions thereof.

(c) Mortgagee or a receiver, while in possession of the Property, shall have the right to manage same, to make, cancel, enforce or modify Leases, to obtain and evict tenants, to fix or modify rents, to demolish any part or all of the Property that in the judgment of Mortgagee may be in an unsafe condition and dangerous to life and property, and to make repairs to the Property all as shall be, in Mortgagee's or receiver's discretion, necessary to protect Mortgagee's interests hereunder. Mortgagee may advance monies to the receiver for such purposes and any monies so expended or advanced shall be added to the Obligations and secured by this Mortgage. Mortgagee, at its option, may repay such monies out of the Rents actually collected. Mortgagee or receiver shall have the right to collect both (i) the Rents which may have accrued before the occurrence of an Event of Default hereunder or from the time Mortgagee or receiver takes possession, but are unpaid at the time of such Event of Default or taking of possession, and (ii) the Rents which may accrue after such Event of Default or taking of possession. Mortgagee, or receiver, while in possession of the Property, shall only be liable to account for Rents actually received.

(d) The taking of possession and collection of Rents by Mortgagee as aforesaid shall not be construed to be an affirmation of any Lease of the Property or any part thereof, and Mortgagee or any other purchaser at any foreclosure sale may (if otherwise entitled to do so) exercise the right to terminate any Lease as though such taking of possession and collection of Rents had not occurred.

(e) To the extent granted herein, Mortgagor shall, from time to time upon the request of Mortgagee, specifically assign to Mortgagee, as additional security hereunder, by an instrument in writing in such form as may be approved by Mortgagee and Mortgagor, all right, title and interest of Mortgagor in and to any and all Leases now or hereafter on or affecting the Property, together with all security therefor and all monies payable thereunder, subject to the conditional permission hereinabove given to Mortgagor to collect the rentals under any such Lease. Mortgagor shall also execute and deliver to Mortgagee any notification, financing statement or other document in form and substance reasonably acceptable to Mortgagor and Mortgagee, reasonably required by Mortgagee to perfect the foregoing assignment as to any such lease.

(f) Mortgagor represents that all Leases, if any exist, are presently in full force and effect and that to Mortgagor's knowledge, no default exists thereunder. As any such Lease shall expire, Mortgagor shall so notify Mortgagee in order that at all times Mortgagee shall have a current list of all Leases.

(g) The assignment contained in the granting clauses hereof shall not be deemed to impose upon Mortgagee any of the obligations or duties of Mortgagor provided in any such Lease (including, without limitation, any liability under the covenant of quiet enjoyment contained in any Lease in the event that any tenant shall have been joined as a party defendant in any action to foreclose under this Mortgage and shall have been barred and foreclosed thereby of all right, title and interest and equity of redemption in the Property or any part thereof), and Mortgagor shall comply with and observe its obligations as landlord under all Leases.

10. Environmental Matters. All environmental matters shall be governed by the terms and conditions of the Loan Agreement, specifically, but not limited to, Sections 9.1.14 and 10.1.5 of the Loan Agreement.

11. Further Assurances. At any time and from time to time, upon Mortgagee's reasonable request, Mortgagor shall make, execute and deliver, or cause to be made, executed and delivered, to Mortgagee and where appropriate shall cause to be recorded or filed, and from time to time thereafter to be re-recorded and refiled at such time and in such offices and places as shall be deemed desirable by Mortgagee, any and all such further mortgages, instruments or further assurances, financing statements, certificates and other documents, each in form and substance reasonably acceptable to Mortgagor and Mortgagee, as Mortgagee may reasonably consider necessary in order to effectuate, complete, or perfect, or to continue and preserve the Obligations of Mortgagor under this Mortgage and the other Loan Documents, and the lien of this Mortgage as a lien upon all of the Property, whether now owned or hereafter acquired by Mortgagor. Upon any failure by Mortgagor to do so, Mortgagee may make, execute, record, file, re-record or refile any and all such mortgages, instruments, certificates and documents for and in the name of Mortgagor, and Mortgagor hereby irrevocably appoints Mortgagee as agent and attorney-in-fact of Mortgagor to do so.

12. Assignment of Rents. The assignment of Leases and Rents contained in the granting clauses of this Mortgage shall be (a) fully operative without any further action on the part of either party, and specifically Mortgagee shall be entitled, at its option, upon the occurrence and during the continuance of an Event of Default, to all Rents from the property described in the granting clauses hereof whether or not Mortgagee takes possession of such property and (b) upon the occurrence and during the continuance of an Event of Default, this Mortgage shall constitute an irrevocable direction to and full authority to each lessee and sublessee under any Leases to pay all Rents to Mortgagee, without proof of the default relied upon and an automatic revocation of the permission hereby granted to Mortgagor to collect and use the Rents and any Rents collected by Mortgagor shall be held in trust for Mortgagee, and Mortgagor shall be a trustee with respect to all Rents received and shall hold these Rents for the account of Mortgagee, to be applied toward the Obligations. Mortgagor hereby irrevocably authorizes each lessee, sublessee, guarantor, person and entity to rely upon and comply with any notice or demand by Mortgagee for the payment to Mortgagee of any Rents due or to become due following the occurrence and during the continuance of an Event of Default. Mortgagor hereby further grants to Mortgagee the right following the occurrence and during the continuance of an Event of Default (i) to enter upon and take possession of the Property for the purpose of collecting the said Rents, (ii) to dispossess by the usual summary proceedings any tenant defaulting in the payment thereof to Mortgagee, (iii) to let the Property or any part thereof, and (iv) to apply said Rents, after payment of all reasonably necessary charges and expenses, on account of the Obligations. Such assignment and this Mortgage shall continue in effect until the Obligations secured hereby are indefeasibly paid in full, the execution of this Mortgage constituting and evidencing the irrevocable consent of Mortgagor to the entry upon and taking possession of the Property by Mortgagee following the occurrence and during the continuance of an Event of Default pursuant to this Mortgage, whether or not foreclosure has been instituted. Neither the exercise of any rights under this Paragraph by Mortgagee nor the application of any such Rents, income or other benefits to the Obligations secured hereby, shall cure or waive any default or notice of Event of Default hereunder or invalidate any act done pursuant hereto or to any such notice, but shall be cumulative of all other rights and remedies.

13. After-Acquired Property. To the extent permitted by and subject to applicable law, the lien of this Mortgage will automatically attach, without further act, to all after-acquired property located in or on, or attached to, or used or intended to be used in connection with, or with the operation of, the Property or any part thereof.

14. Right to Remedy Defects. Subject to Mortgagor's right to contest the amount and validity thereof as set forth herein and in the Loan Agreement, if Mortgagor defaults in the payment of any Tax, assessment, encumbrance or other imposition, in its obligation to furnish insurance hereunder, or in the performance or observance of any other covenant, condition or term in this Mortgage or the other Loan Documents, without limiting Mortgagee's rights to establish availability reserves for any of such matters at any time, Mortgagee may (but shall not be obligated to) advance funds for the account of Mortgagor to pay any such charges or items or perform or observe the same. In addition, Mortgagee may at any time and from time to time advance such additional sums as Mortgagee in its reasonable discretion may deem necessary to preserve and protect the Property or any portion thereof and to protect the security of this Mortgage. All such advanced costs and expenses actually incurred by Mortgagee in connection therewith shall be due and payable on demand, shall bear interest at the post-default rate of interest payable under the Loan Agreement, and shall be added to the Obligations and secured by the lien of this Mortgage. Mortgagee is hereby empowered to enter and authorize others to enter upon the Property or any part thereof for the purpose of performing or observing any such defaulted covenant, condition or term, without thereby becoming liable to Mortgagor or any person in possession holding under Mortgagor, except in connection with Mortgagee's or any of its agents' gross negligence or willful misconduct. Payment by Mortgagee as authorized herein to the holder of any prior lien shall entitle Mortgagee to become subrogated to the claims of such party to the extent of all such payments. The production of a receipt by Mortgagee shall be prima facie proof of a payment or advance authorized hereby and the amount and validity thereof.

15. Default. An Event of Default under the Loan Agreement shall constitute an Event of Default under this Mortgage.

16. Remedies on Default. Upon the occurrence and during the continuance of any Event of Default:

(a) Mortgagee shall have the option, in its sole discretion, and without further notice to or demand upon Mortgagor, to (i) take possession of the Property; (ii) file a complaint or complaints based upon this Mortgage and proceed thereon to judgment, execution, and sale for the collection of all sums unpaid and secured hereby, together with interest, reasonable costs, expenses actually incurred by Mortgagor, and an attorneys' collection fee as permitted by law, or institute any other proceeding at law or in equity to foreclose this Mortgage to recover the sums due or to become due Mortgagee, including all sums unpaid and secured hereby, together with interest, reasonable expenses and costs actually incurred by Mortgagor, and an attorneys' collection fee as permitted by law; (iii) have a receiver appointed to take possession, operate, manage, lease, sell, repair, or otherwise deal with the Property; (iv) exercise the power of sale granted herein and (v) exercise all other rights and remedies provided in this Mortgage, and all related agreements, or which may be available to Mortgagee at law or in equity. All rights and remedies of Mortgagee shall be cumulative and concurrent and may be pursued singly, successively or together, at Mortgagee's sole discretion, and may be exercised at one time and from time to time.

(b) Mortgagee shall have the right, from time to time, to bring an appropriate action to recover any sums required to be paid by Mortgagor under the terms of this Mortgage, as they become due, without regard to whether or not the principal indebtedness or any other sums secured by this Mortgage shall be due, and without prejudice to the right of Mortgagee thereafter to bring an action to foreclose this Mortgage or any other action for any default by Mortgagor existing at the time the earlier action was commenced.

(c) Neither Mortgagor nor any other person now or hereafter obligated for payment of all or any part of the sums now or hereafter secured by this Mortgage shall be relieved of such obligation by reason of the failure of Mortgagee to comply with any request of Mortgagor or of any other person so obligated to take action to foreclose on this Mortgage or otherwise enforce any provisions of the Mortgage, or by reason of the release, regardless of consideration, of all or any part of the security held for the Obligations secured by this Mortgage, or by reason of any agreement or stipulation between any subsequent owner of the Property and Mortgagee extending the time of payment or modifying the terms of the Mortgage without first having obtained the consent of Mortgagor or such other person; and in the latter event, Mortgagor and all such other persons shall continue to be liable to make payments according to the terms of any such extension or modification agreement, unless expressly released and discharged in writing by Mortgagee. No release of all or any part of the security as aforesaid shall in any way impair or affect the lien of this Mortgage or its priority over any subordinate lien.

(d) With respect to the personal property in which a security interest is herein granted, Mortgagee may exercise any or all of the rights accruing to a secured party under this Mortgage, the Uniform Commercial Code as applicable in the jurisdiction in which the Property is located (the "UCC") and any other applicable law. Mortgagor shall, if Mortgagee requests, assemble all such personal property and make it available to Mortgagee at a place or places to be reasonably designated by Mortgagee. Any notice required to be given by Mortgagee of a public or private sale, lease or other disposition of the personal property or any other intended action by Mortgagee may be served by registered or certified mail, return receipt requested, directed to Mortgagor at the address of Mortgagor last known to Mortgagee, and shall be deemed complete five (5) days after the same shall be posted and shall constitute reasonable and fair notice to Mortgagor of any such action.

(e) Each right, power and remedy of Mortgagee provided for in this Mortgage, in the other Loan Documents or now or hereafter existing at law or in equity or by statute or otherwise, shall be cumulative and concurrent and shall be in addition to every other right, power or remedy provided for in this Mortgage, the other Loan Documents, or now or hereafter existing at law or in equity or by statute or otherwise.

17. Possession by Mortgagee. If Mortgagee shall take possession of the Property as aforesaid, Mortgagee may: (a) hold, manage, operate, and lease the same, whether to Mortgagor or any other person or persons, on such terms and for such periods of time as Mortgagee may deem proper, and the provisions of any lease made by Mortgagee pursuant hereto shall be valid and binding upon Mortgagor notwithstanding that Mortgagee's rights of possession may terminate or this Mortgage may be satisfied of record prior to the expiration of the term of such lease; (b) make such repairs thereto as Mortgagee may deem reasonably necessary for the repositioning of the Property; (c) demolish any part or all of the Improvements situated upon the Property which in the judgment of Mortgagee may be in unsafe condition and dangerous to life and property; and (d) collect the Rents arising from the Property, past due and thereafter becoming due, and apply the same, in such order of priority as Mortgagee may determine, to the payment of all charges and commissions incidental to the collection of Rents and the management of the Property and all other sums, obligations and charges secured hereby. All monies advanced by Mortgagee for the purposes aforesaid and not repaid out of the Rents collected shall be repaid by Mortgagor to the Mortgagee, on demand therefore, together with interest thereon at the highest rate being charged on the Obligations, and shall be added to the Obligations secured by this Mortgage. The taking of possession and collection of Rents by Mortgagee as aforesaid shall not be construed to be an affirmation of any lease of the Property or any part thereof, and Mortgagee or any other purchaser at any foreclosure sale may (if otherwise entitled to do so) exercise the right to terminate any such lease as though such taking of possession and collection of Rents had not occurred.

18. Separate Parcels. If more than one property, lot or parcel is covered by this Mortgage, and if this Mortgage is foreclosed upon, or judgment is entered upon any Obligation secured hereby, execution may be made upon any one or more of the properties, lots or parcels and not upon the others, or upon all of such properties or parcels, either together or separately, and at different times or at the same time, and execution sales may likewise be conducted separately or concurrently, in each case at Mortgagee's election.

19. Waivers. The granting of an extension or extensions of time by Mortgagee with respect to the performance of any provision of this Mortgage, or any obligation or agreement secured hereby on the part of Mortgagor to be performed, or the taking, release, discharge or compromise of any additional security, or the waiver by Mortgagee or failure by Mortgagee to enforce any provision of this Mortgage to declare a default with respect thereto, shall not operate as a waiver of any subsequent Event of Default or defaults or affect the right of Mortgagee to exercise all rights and remedies stipulated herein and therein, and to enforce strict performance hereof without prior notice of intention to do so. To the fullest extent permitted under applicable law, Mortgagor hereby waives and releases: (a) all errors, defects and imperfections in any proceeding instituted by the Mortgagee under this Mortgage and/or any other of the Loan Documents; (b) all benefit that might accrue to Mortgagor by virtue of any present or future law exempting the Property, or any part of the proceeds arising from any sale thereof, from attachment, levy or sale on execution; (c) any present or future statute of limitation or moratorium law or any other present or future law, regulation or judicial decision which provides for any stay of execution, marshalling of the Property or any other assets, exemption from civil process, redemption, extension of time for payment or valuation or appraisal of any portion of the Property; and (d) unless specifically and expressly required herein or in the Loan Agreement the right to receive any notice from the Mortgagee, including, without limitation, notice of Mortgagor's default or of Mortgagee's election to exercise, or Mortgagee's actual exercise, of any option under this Mortgage or under any of the other Loan Documents.

20. Governing Law. Except as otherwise expressly provided in any of the Loan Documents, in all respects, including all matters of construction, validity and performance, this Mortgage and the obligations arising hereunder shall be governed by, and construed and enforced in accordance with, the laws of the State of New York applicable to contracts made and performed in that state, and any applicable laws of the United States of America; except with respect to the creation, perfection and enforcement of liens and security interests, which shall be governed by and construed and enforced in accordance with the law of the state in which the Property is located (the "State").

21. Security Agreement Under the Uniform Commercial Code.

(a) This Mortgage constitutes not only a real property mortgage, but also a "security agreement" and a financing statement filed as a "fixture filing" within the meaning of the Uniform Commercial Code of the State ("UCC"). Mortgagor (as debtor) hereby grants, assigns, conveys, pledges, hypothecates, and transfers to Mortgagee (as secured party) as security for the prompt and complete payment and performance of the Obligations, a lien and security interest in all of Mortgagor's right, title and interest in and to all fixtures, machinery, appliances, equipment, furniture and personal property of every nature whatsoever constituting part of the Property, subject only to the Permitted Liens. Nothing in this Section 21(a) shall limit in any manner whatsoever any right Mortgagee may have under the Loan Agreement.

(b) Mortgagor hereby authorizes the filing of any and all such documents, including, without limitation, financing statements pursuant to the UCC, as Mortgagee may request to preserve and maintain the priority of the lien and security created hereby on the portion of Property which may be deemed personal property or fixtures, and shall pay to Mortgagee on demand any expenses incurred by Mortgagee in connection with the preparation, execution and filing of any such documents. Mortgagor hereby authorizes and empowers Mortgagee to execute and file, on Mortgagor's behalf, all financing statement amendments and refilings and continuations thereof as Mortgagee deems necessary or advisable to create, preserve and protect said lien and security interest. When and if Mortgagor and Mortgagee shall respectively become the Debtor and Secured Party in any UCC financing statement affecting the Property, this Mortgage shall be deemed a security agreement as defined in said UCC and the remedies for any violation of the covenants, terms and conditions of the agreements herein contained shall be (i) as prescribed herein and in the other Loan Documents, (ii) governed by general law, or (iii) as to such part of the security which is also reflected in said financing statement, governed by the specific statutory provisions now or hereafter enacted and specified in the UCC, all at Mortgagee's election.

(c) Mortgagor and Mortgagee agree that the filing of a financing statement in the records normally having to do with personal property shall never be construed as in any way derogating from or impairing the express declaration and intention of the parties hereto, hereinabove stated, that everything used in connection with the production of income from the Property and/or adapted for use therein and/or which is described or reflected in this Mortgage is, and at all times and for all purposes and in all proceedings both legal or equitable, shall be regarded as part of the real estate encumbered by this Mortgage irrespective of whether (i) any such item is physically attached to the Improvements, (ii) serial numbers are used for the better identification of certain equipment items capable of being thus identified in a recital contained herein or in any list filed with Mortgagee, or (iii) any such item is referred to or reflected in any such financing statement so filed at any time. Similarly, the mention in any such financing statement of (A) rights in or to the proceeds of any fire and/or hazard insurance policy, or (B) any award in eminent domain or condemnation proceedings for a taking or for loss of value, or (C) Mortgagor's interest as lessor in any present or future lease or rights to income growing out of the use and/or occupancy of the Property, whether pursuant to lease or otherwise, shall never be construed as in any way altering any of the rights of Mortgagee as determined by this instrument or impugning the priority of the lien and security interest granted hereby or by any other recorded document, but such mention in the financing statement is declared to be for the protection of Mortgagee in the event any court or judge shall at any time hold with respect to (A), (B) and (C) that notice of Mortgagee's priority of interest to be effective against a particular class of persons, including but not limited to the federal government and any subdivisions or entity of the federal government, must be filed in the UCC records.

(d) This Mortgage, to the extent that it conveys or otherwise deals with property or with items of property which are or which may become fixtures constitutes a financing statement filed and indexed as a fixture filing in the real estate records of the recorder of the county in which such property is located with respect to any and all fixtures and with respect to any personal property that may now be or hereafter become fixtures. For the purposes of the foregoing, Mortgagor is the debtor (with its address as first set forth above) and Mortgagee is the secured party (with its address as first set forth above). Information concerning the security interest created by this Mortgage may be obtained from Mortgagee, as secured party, at its address first set forth above. Mortgagor is the record owner of the Property. This Mortgage covers goods which are or are to become Fixtures. 7200 Grade Lane LLC is a limited liability company organized under the laws of the Commonwealth of Kentucky. Mortgagor's Organizational Identification Number appears on the cover page of this Mortgage. If any item of property hereunder also constitutes collateral granted to Mortgagee under any other mortgage, agreement, document or instrument, in the event of any conflict between the provisions of this Mortgage and the provisions of such other mortgage, agreement, document or instrument relating to such collateral, the provision or provisions selected by Mortgagee shall control with respect to such collateral.

22. Binding Effect. The covenants and agreements herein contained shall bind and inure to the benefit of the respective parties, their heirs, personal representatives, successors and assigns. No rights are intended to be granted hereunder for the benefit of any third party donee, creditor or incidental beneficiary.

23. Delegation of Duties. No delegation of any kind to Mortgagee of Mortgagor's duty to perform any obligation arising in connection with the Property is intended by this Mortgage.

24. Searches and Filing Fees. Mortgagor shall upon demand pay the cost of title and lien searches, title insurance premiums, charges for recording this Mortgage, including any impositions, taxes or similar charges imposed by any governmental authority in connection with the recordation of this Mortgage, or the issuance of any note or other instrument secured hereby, as well as all other reasonable costs and expenses actually incurred by Mortgagee in connection with proceedings to recover any sums secured hereby. Mortgagor shall also pay any fees and charges of Mortgagee in connection with the satisfaction of this Mortgage of record.

25. Declaration of No Set-Off. If requested at any time by Mortgagee, Mortgagor shall promptly (and in any event within ten days after notice) furnish Mortgagee or Mortgagee's designee with a Declaration of No Set-Off, in form and substance reasonably satisfactory to Mortgagor and Mortgagee or any such designee, certifying, in a writing duly acknowledged, the amount of principal, interest and other charges then owing under the Loan Documents, and whether there are any set-offs or defenses against the same, and, if so, the nature thereof.

26. Notices. All notices, requests and demands hereunder shall be in writing and deemed to have been given or made if delivered in accordance with Section 12.3.1 of the Loan Agreement.

27. Captions. The headings of any provision hereof are for convenience only and shall not limit or expand or otherwise affect any provisions hereof.

28. Construction. The words "Mortgagor" and "Mortgagee" include singular or plural, individual or entity, and the respective heirs, executors, administrators, permitted successors and permitted assigns of Mortgagor, and Mortgagee, as the case may be. The use of any gender applies to all genders.

29. Future Advances. This Mortgage covers present and future advances made by Mortgagee to or for the benefit of Mortgagor pursuant to the Loan Agreement which will not at any time exceed the aggregate outstanding principal balance of \$12,500,000.00. It is the intent of the parties hereto that the lien of such future advances shall relate back to the date of recording of this Mortgage. Mortgagor covenants not to issue a cut-off notice to Mortgagee until all Obligations have been satisfied in full.

30. Post-Judgment Interest, Rights and Remedies; Non-Merger. It is the intention of the parties hereto that (a) the interest rates set forth in the Loan Agreement and any evidence of indebtedness issued pursuant thereto shall survive maturity, acceleration and entry of judgment, and continue to accrue on the outstanding principal balance of the Obligations until such Obligations are paid in full, and (b) the covenants and obligations of the Mortgagor and the rights and remedies of the Mortgagee hereunder and under the Loan Agreement and any other instrument or obligation executed pursuant thereto shall not merge with or be extinguished by the entry of judgment hereunder or thereunder and such covenants, obligations, rights and remedies shall survive any entry of judgment and continue until payment in full of the indebtedness secured hereby.

31. Conflicts. In case of any conflict between the terms and provisions of this Mortgage and the Loan Agreement with respect to the same matter, the provisions of the Loan Agreement shall control. Consistent additional provisions shall not be considered conflicting provisions for purposes of this Section.

32. WAIVER OF JURY TRIAL. MORTGAGOR HEREBY WAIVES TRIAL BY JURY IN ANY LITIGATION IN ANY COURT WITH RESPECT TO, IN CONNECTION WITH, OR ARISING OUT OF THIS MORTGAGE OR THE OTHER LOAN DOCUMENTS.

33. WAIVER OF COUNTERCLAIMS. MORTGAGOR WAIVES ALL RIGHTS TO INTERPOSE ANY CLAIMS, DEDUCTIONS, SETOFFS OR COUNTERCLAIMS OF ANY NATURE (OTHER THAN COMPULSORY COUNTERCLAIMS) IN ANY ACTION OR PROCEEDING WITH RESPECT TO THIS MORTGAGE, THE OBLIGATIONS, THE PROPERTY OR ANY MATTER ARISING THEREFROM OR RELATING HERETO OR THERETO.

34. Business Purposes. Mortgagor covenants and agrees that the indebtedness secured by this Mortgage and the proceeds of such indebtedness are for business purposes only.

35. Changes, Etc. Neither this Mortgage nor any term hereof may be changed, waived, discharged or terminated orally, or by any action or inaction, but only by an instrument in writing signed by Mortgagor and Mortgagee. The modification hereof or of any of the Loan Documents or the release of any part of the Property from the lien hereof shall not impair the priority of the lien of this Mortgage.

36. Execution-Multiple Originals. This Mortgage may be executed in any number of duplicate originals and each such multiple original shall be deemed to constitute but one and the same instrument, any one of which shall be admissible to prove the terms hereof.

37. Multisite Real Estate Transaction. Mortgagor acknowledges that this Mortgage is one of a number of other security documents that secure the Obligations. Mortgagor agrees that the lien of this Mortgage shall be absolute and unconditional and shall not in any manner be affected or impaired by any acts or omissions whatsoever of Mortgagee and without limiting the generality of the foregoing, the lien hereof shall not be impaired by any acceptance by Mortgagee of any security for or guarantees of any of the Obligations hereby secured, or by any failure, neglect or omission on the part of the Mortgagee to realize upon or protect any Obligation or indebtedness hereby secured or any collateral security therefor, including the other security documents. The lien hereof shall not in any manner be impaired or affected by any release (except as to the property released), sale, pledge, surrender, compromise, settlement, renewal, extension, indulgence, alteration, changing, modification or disposition of any of the Obligations secured or any of the collateral security therefor, including the other security documents or of any guarantee thereof, and Mortgagee may at its discretion foreclose, exercise any power of sale, or exercise any other remedy available to it under any or all of the other security documents without first exercising or enforcing any of its rights and remedies hereunder. Such exercise of Mortgagee's rights and remedies under any or all of the other security documents shall not in any manner impair the indebtedness hereby secured or the lien of this Mortgage and any exercise of the rights or remedies of Mortgagee shall not impair the lien of any other security documents or any of Mortgagee's rights and remedies thereunder. Mortgagor specifically consents and agrees that Mortgagee may exercise its rights and remedies hereunder and under the other security documents separately or concurrently and in any order that it may deem appropriate, and Mortgagor waives any rights of subrogation.

38. Guarantee Obligations. In addition to securing the direct obligations of Mortgagor, this Mortgage also secures the obligations of Borrowers. Mortgagor further agrees that Mortgagee may do any of the following without adversely affecting the validity or enforceability of this Mortgage: (a) release, surrender, exchange, compromise or settle the Obligations or any part thereof; (b) change, renew or waive the terms of the Obligations, or any part thereof, subject to the terms of the Loan Agreement; (c) change, renew or waive the terms of any Loan Document other than this Mortgage or any other note, instrument or agreement relating to the Obligations, such rights in Mortgagee to include, without limitation, the right to change the rate of interest charged with respect to the Obligations or any part thereof (in which event the obligations of Mortgagor shall be deemed also to include all interest at such changed rate); (d) any extension or indulgence with respect to the payment or performance of the Obligations or any part thereof; (e) enter into any agreement of forbearance with respect to the Obligations, or any part thereof; (f) release, surrender, exchange or compromise any security held by Mortgagee for any of the Obligations; (g) release any other person who is a guarantor or surety or other obligor of, or who has agreed to purchase, the Obligations or any part thereof; and (h) release, surrender, exchange or compromise any security or lien held by Mortgagee for the Obligations or any part thereof. Mortgagor agrees that Mortgagee may do any of the above as Mortgagee deems necessary or advisable, in Mortgagee's sole discretion, without giving any notice to Mortgagor, and that Mortgagor will remain liable for full payment and performance of the Obligations.

39. Certain Matters Relating to Property Located in the Commonwealth of Kentucky. With respect to the Property which is located in the Commonwealth of Kentucky, notwithstanding anything contained to the contrary:

(a) Future Advances. This Mortgage shall secure the payment of any and all renewals, extensions or amendments of the indebtedness secured hereby in whole or in part and any documents evidencing such indebtedness, including, without limitation, any and all renewals, extensions or amendments of, and replacements or substitutions for the Loan Agreement or the other Loan Documents, and no renewals or extensions shall be deemed a payment so as to discharge this Mortgage. As permitted by KRS 382.520, this Mortgage secures not only the initial advances under Loan Agreement and the other Loan Documents, but all future advances and all other additional indebtedness, whether direct, indirect, existing, future, contingent or otherwise, connected with or arising out of the Loan Agreement, as the same may be hereafter amended, to the extent of not more than \$12,500,000.00 and whether or not evidenced by notes, accounts or obligations of any kind whatsoever. It shall be a default under this Mortgage if Mortgagor requests a release, in the manner provided by KRS 382.520, of any portion of the liens securing any of the additional indebtedness secured by this Mortgage pursuant to this Mortgage prior to the date that all of the obligations secured by this Mortgage have been paid and discharged and the Loan Agreement and the other Loan Documents have been terminated, and Mortgagor hereby waives any and all right to request such a release to the maximum extent permitted by law.

(b) Revolving Loan. To the extent that the indebtedness evidenced by the Loan Agreement and the other Loan Documents evidencing part of the Obligations is deemed to be a “line of credit” or a “revolving credit plan” pursuant to KRS 382.385, Mortgagor and Mortgagee intend that this Mortgage secure the line of credit and the revolving credit plan, and the maximum credit limit of the line of credit or the revolving credit plan which may be outstanding at any time or times under the line or the plan and which is to be secured by this Mortgage is \$12,500,000.00. It shall be a default under this Mortgage if Mortgagor requests a release, in the manner provided by KRS 382.385, of any portion of the lien securing the line of credit or the revolving credit plan prior to the date that all of the Obligations have been paid and the Loan Agreement and the other Loan Documents have been terminated, and Mortgagor hereby waives any and all right to request such a release to the maximum extent permitted by law.

(c) Maturity Date: The maturity date of the Obligations secured by this Mortgage is the Commitment Termination Date.

Any inconsistency or conflict between this Section 39 and any other provision or terms contained herein shall be construed in favor of and governed by this Section 39.

[THE REMAINDER OF THIS PAGE HAS BEEN INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, this Mortgage has been duly authorized and has been executed and delivered by Mortgagor as of the date first written above.

7200 GRADE LANE LLC, a Kentucky limited liability company

BY: INDUSTRIAL SERVICES OF AMERICA, INC., a Florida corporation,
Manager

By: /s/ Todd L. Phillips

Todd L. Phillips, Chief Executive Officer, President and Chief Financial
Officer

STATE OF KENTUCKY)
)
COUNTY JEFFERSON)

Before me, a Notary Public in and for the State and County aforesaid, personally appeared Todd L. Phillips, known to me or proven by satisfactory evidence to be the Chief Executive Officer, President and Chief Financial Officer of Industrial Services of America, Inc., a Florida corporation, which is the Manager of 7124 Grade Lane LLC, a Kentucky limited liability company, who executed and acknowledged the foregoing instrument as his free act and deed and the free act and deed of such company.

IN WITNESS WHEREOF, I have set my hand and seal this 7th day of November, 2018.

/s/ Tracy Thompson Taylor
NOTARY PUBLIC

My commission expires: January 31, 2020

[SEAL]

This instrument prepared by:

/s/ Ikhwan A. Rafeek

Ikhwan A. Rafeek

OTTERBOURG P.C.

230 Park Avenue

New York, New York 10169

(212) 661-9100

EXHIBIT A
Description of Land

PARCEL A:

Tract 1:
Beginning at a point in the center line of Grade Lane at the Northeasterly corner of the tract conveyed to Bottle Gas Shop, Incorporated, by Deed dated October 25, 1952, of record in Deed Book 2963, Page 47, in the Office of the Clerk of the County Court of Jefferson County, Kentucky; running thence with the center line of Grade Lane, North 21 degrees 25 minutes East 400 feet to the Northeasterly corner of the tract conveyed to Universal Concrete Pipe Company by Deed dated April 30, 1949, of record in Deed Book 2521, Page 461, in the Office of the Clerk aforesaid; thence with the Northeasterly line of said tract North 65 degrees 42 minutes West 1288.76 feet to the Northwesterly corner of said Universal Concrete Pipe Company's tract; thence with the West line of said tract and also the East line of the Louisville and Nashville Railroad Company, South 7 degrees 18 minutes East 547.67 feet, to the Northwest corner of the tract conveyed to Bottle Gas Shop, Incorporated, as aforesaid; thence with the Northwest line of said Bottle Gas Shop, Incorporated tract, South 69 degrees 29 minutes East 1025.04 feet to the center line of Grade Lane and the point of beginning.

Tract 2:
Beginning at a pin in the Easterly line of the tract conveyed by Augusta C. Bright to Louisville and Nashville Railroad Company, by deed dated October 19, 1920, of record in Deed Book 960, Page 146, in the Office of the Clerk of the County Court of Jefferson County, Kentucky, at its intersection with the Northeasterly line of the tract conveyed to The Bottled Gas Shop, Incorporated, by deed dated October 25, 1952, of record in Deed Book 2963, Page 47, in the Office aforesaid; thence with the Northeasterly line of said tract, South 69 degrees 29 minutes East 242.04 feet to an iron pipe; thence South 20 degrees 31 minutes West 199.09 feet to an iron pipe in the Northeasterly line of the tract conveyed to David P. Kuhl, et. al., by deed dated January 1, 1956, of record in Deed Book 3365, Page 134, in the Office aforesaid; thence with the Northeasterly line of same, North 69 degrees 27 minutes West 136.40 feet to an iron pipe in the Easterly line of the tract conveyed to Louisville and Nashville Railroad Company by deed aforesaid; thence with the Easterly line of said last mentioned tract, North 7 degrees 18 minutes West 225.23 feet to the beginning.

PARCEL B:

All that certain tract or parcel of land situated in Jefferson County, Kentucky, and being more particularly bounded and described as follows:

Beginning at a bolt in the centerline of Grade Lane, which bolt is at the Northeast corner of the property conveyed to the Bottled Gas Shop, Incorporated, by deed dated October 25, 1952, and recorded in Deed Book 2963, Page 47, in the Office of the Clerk of the County Court of Jefferson County, Kentucky; running thence along the Northerly line of the aforementioned tract North 69 degrees 29 minutes West 783 feet to an iron pipe at the Northeast corner of a tract of land conveyed to American-Marietta Corporation, by deed dated March 21, 1957, and recorded in Deed Book 3442, Page 392, in the Clerk's Office aforesaid; running thence with the Easterly line of the last mentioned tract South 20 degrees 31 minutes West a distance of 199.09 feet to an iron pipe, said point being the Southeasterly corner of the last mentioned tract and also being the North line of the property conveyed to David P. Kuhl and William H. Kuhl deed dated January 1, 1956, and recorded in Deed Book 3365, Page 134, in the Clerk's Office aforesaid; running thence along the Northerly line of the last mentioned tract South 69 degrees 25 minutes East 780.96 feet to a point in the centerline of Grade Lane, said point being the Northeast corner of the last mentioned tract; running thence along the centerline of Grade Lane North 21 degrees 06 minutes East a distance of 200 feet to the point of beginning.

EXCEPTING THEREFROM so much of said property as was conveyed to Louisville/Jefferson County Metro Government, by Deed of Right of Way Dedication dated February 23, 2012, of record in Deed Book 9871, Page 272, in the office of the Clerk of Jefferson County, Kentucky.

MORTGAGE, ASSIGNMENT OF LEASES AND RENTS,
SECURITY AGREEMENT AND FIXTURE FILING

by and from

7124 GRADE LANE LLC

to

BANK OF AMERICA, N.A.,

as Lender

Dated as of November 9, 2018

COLLATERAL IS AND INCLUDES FIXTURES

THIS DOCUMENT SERVES AS A FINANCING STATEMENT FILED AS A FIXTURE FILING UNDER THE
KENTUCKY UNIFORM COMMERCIAL CODE

RECORDING REQUESTED BY,
AND WHEN RECORDED RETURN TO:

Otterbourg P.C.
230 Park Avenue
New York, New York 10169
Attn: Oleg R. Sabel, Esq.

**MORTGAGE, ASSIGNMENT OF LEASES AND RENTS,
SECURITY AGREEMENT AND FIXTURE FILING**

THIS MORTGAGE, ASSIGNMENT OF LEASES AND RENTS, SECURITY AGREEMENT AND FIXTURE FILING (“Mortgage”), is made and executed as of the 9th day of November, 2018, by 7124 GRADE LANE LLC, a Kentucky limited liability company, with an office located at 7100 Grade Lane, Bldg. 1, Louisville, KY 40213 (“Mortgagor”) to BANK OF AMERICA, N.A., having an office at One Bryant Park, New York, New York 10036, (“Mortgagee”).

All capitalized terms used but not otherwise defined herein shall have the same meanings ascribed to such terms, respectively, in the Loan Agreement described below.

WITNESSETH:

WHEREAS, Mortgagor is the owner of certain fee simple interests in real property and the buildings and improvements thereon, together with related rights as further described herein; and

WHEREAS, Borrowers (including Mortgagor) and Mortgagee have entered into or are about to enter into financing arrangements pursuant to which the Mortgagee may make loans and advances and provide other financial accommodations (the “Credit Facility”) to Borrowers as set forth in the Loan and Security Agreement, dated as of the date hereof, by and among Borrowers and Mortgagee (as the same now exists or may hereafter be amended, modified, supplemented, extended, renewed, restated or replaced, the “Loan Agreement”) and the other Loan Documents, which Loan Agreement provides that, among other things, that the Mortgagee provide to Borrowers a Credit Facility in an aggregate principal sum not to exceed TWELVE MILLION FIVE HUNDRED THOUSAND DOLLARS (\$12,500,000.00); and

WHEREAS, Mortgagor, by this Mortgage, intends to secure and does hereby secure all existing and future indebtedness and other obligations of Borrowers to Mortgagee as hereinafter further described, including, without limitation, (a) all existing and future indebtedness, liabilities and obligations of Borrowers to Mortgagee under the Loan Agreement up to the aggregate principal amount not to exceed TWELVE MILLION FIVE HUNDRED THOUSAND DOLLARS (\$12,500,000.00) at any time and from time to time outstanding and (b) all other existing and future indebtedness, obligations and liabilities of Borrowers to Mortgagee, including, without limitation, all interest on such principal sum, costs, expenses and attorneys’ fees accruing or incurred in connection therewith, as hereinafter further described.

NOW, WITNESSETH, that the foregoing recitals being hereinafter deemed incorporated by reference and made a part hereof as if again set forth at length, Mortgagor, in consideration of the Loan Agreement, the Loan Documents and the extension of credit therein, and to secure the payment and performance of the indebtedness evidenced by the Loan Agreement and other obligations hereinafter set forth, including the performance of the covenants and agreements herein contained and in consideration of the further sum of One (\$1.00) Dollar unto Mortgagor in hand well and truly paid by Mortgagee at or before the sealing and delivery hereof, the receipt whereof is hereby acknowledged, and intending to be legally and firmly bound hereby, has mortgaged, pledged, warranted, gave, granted, bargained, assigned, sold, alienated, released, conveyed and confirmed, and by these presents does mortgage, pledge, warrant, give, grant, bargain, assign, sell, alien, release, convey and confirm unto Mortgagee, its successors and assigns, and grants to Mortgagee, its successors and assigns, a mortgage and security interest in all right, title and interest of Mortgagor in and to the following property, rights and interests and the proceeds thereof (hereinafter collectively referred to as the “Property”):

A. The real property described on Exhibit A attached hereto and made a part hereof (the “Land”) and all additional lands, estates and development rights hereafter acquired by Mortgagor for use in connection with the Land and the development of the Land and all additional lands and estates therein which may, from time to time, by supplemental mortgage or otherwise, be expressly made subject to the lien of this Mortgage; and

B. TOGETHER WITH (1) all the buildings, structures, additions, improvements, appurtenances, hereditaments and tenements now or hereafter located on or relating to the Land and (2) all and singular the facilities, fixtures, trade fixtures, machinery, equipment, apparatus, installations, furniture, equipment, and other property of every kind and nature whatsoever owned by Mortgagor, or in which Mortgagor has or shall have an interest, now or hereafter located in or upon, or attached to the Land, or appurtenances thereto, or used or usable in connection with the Land, Improvements, Easements or the operation of the business conducted thereon (all such machinery, equipment, fixtures and other property and the proceeds thereof hereinafter collectively referred to as the “Equipment”), including, but not limited to, all heating apparatus, boilers, generators, furniture, plumbing, lighting fixtures, laundry, ventilating, air-conditioning and refrigerating equipment, all awnings, blinds, screens, storm sash, pumping equipment, electrical equipment including transformers, and all fixtures, appliances, property and equipment of every kind and description now or hereafter installed in or used

in connection with, or located on the aforesaid premises, or used in the manufacturing or other operations of the plant, business or dwelling situated thereon, and further including all replacements, accessions, renewals, additions and substitutions to the foregoing and all of the right, title and interest of Mortgagor in and to any such personal property or fixtures, which, to the fullest extent permitted by law, shall be conclusively deemed fixtures and a part of the real property encumbered hereby (the “Improvements”); and

C. TOGETHER WITH all and singular the streets, easements, rights of way, gores of land, lots, parcels, alleys, passages, ways, waters, watercourses, development rights, air rights, rights, liberties, privileges, servitudes, tenements, hereditaments, appurtenances, alterations and partitions whatsoever, to any of the property described in Paragraphs A and B hereof now or hereafter belonging or in any wise appertaining to any of the property described in Paragraphs A and B hereof, or which shall hereafter in any way belong, relate or be appurtenant thereto, whether now owned or hereafter acquired by Mortgagor (the “Easements”); and

D. TOGETHER WITH (1) all of the estate, right, title and interest of Mortgagor of, in and to all judgments, insurance proceeds, awards of damages and settlements hereafter made resulting from condemnation proceedings or the taking of the property described in Paragraphs A, B and C hereof or any part thereof under the power of eminent domain, or for any damage (whether caused by such taking or otherwise) to the property described in Paragraphs A, B and C hereof or any part thereof, or to any rights appurtenant thereto, and all proceeds of any sale or other disposition of the property described in Paragraphs A, B and C hereof or any part thereof; and Mortgagee is hereby authorized to collect and receive said awards and proceeds and to give proper receipts and acquittances therefor, and, if it so elects, to apply the same toward the payment of the Obligations (as hereinafter defined), notwithstanding the fact that the amount owing thereon may not then be due and payable, and Mortgagor hereby covenants and agrees upon reasonable request, to make, execute and deliver any and all assignments and other instruments sufficient for the purpose of further evidencing the assignment of the aforesaid awards to Mortgagee, its successors, or assigns, free, clear and discharged of any and all encumbrances of any kind or nature whatsoever, each in form and substance reasonably acceptable to Mortgagor and Mortgagee; and (2) all contract rights, general intangibles, actions and rights in action, including, without limitation all rights to insurance proceeds and unearned premiums arising from or relating to the property described in Paragraphs A, B and C above; and (3) all proceeds, products, replacements, additions, substitutions, renewals and accessions of and to the property described in Paragraphs A, B and C; and

E. TOGETHER WITH all right, title and interest of the Mortgagor under all leases, tenancies, licenses, lettings, contracts and other agreements, written or otherwise, granting occupancy or use of any of the property described in Paragraphs A, B and C hereof, over the Property or any portion thereof, now executed or entered into subsequent hereto (the "Leases"), together with all security therefor, deposits relating thereto and all monies payable thereunder and all books and records which contain payments under the Leases, and the right to receive and apply to the Obligations, all rental income, receipts, revenues, issues, profits, damages and awards now due or which may hereafter become due subject, however, to the conditional permission herein given to Mortgagor to collect the rents, income and other benefits arising under any such Lease. Mortgagee shall have the right, following the occurrence and during the continuance of an Event of Default (as hereinafter defined), to notify any lessee of the rights of Mortgagee as provided in this Paragraph; and

F. TOGETHER WITH all rents, income, issues, profits and other benefits to which Mortgagor may now or hereafter be entitled from any of the property described in Paragraphs A, B and C hereof, and other Property (hereinafter collectively referred to as the "Rents"); provided however, that a license is hereby given to Mortgagor so long as no Event of Default has occurred and continues hereunder, to collect and use such rents, income, issues, and other benefits as they become due and payable, but not in advance thereof. Upon the occurrence and during the continuance of an Event of Default, the permission hereby given to Mortgagor to collect and use such rent, income, issues and other benefits from any of the property described in Paragraphs A, B and C hereof and other Property shall terminate and such license shall not be reinstated until a cure of such Event of Default has occurred, as determined by Mortgagee by written notice to Mortgagor thereof. The foregoing provision hereof shall constitute an absolute and present assignment of the rents, income, issues, profits and other benefits from the Land, Improvements, Easements and other Property, subject, however to the conditional license given to Mortgagor to collect and use such rents, income, issues and benefits as herein provided; and the existence or exercise of such right of Mortgagor shall not operate to subordinate this assignment to any subsequent assignment, in whole or in part, by Mortgagor, and any such subsequent assignment shall be subject to the rights of Mortgagee hereunder.

G. TOGETHER WITH all products and proceeds of the foregoing, in any form.

TO HAVE AND TO HOLD the Property and all parts thereof unto Mortgagee, its successors and assigns, to and for the proper use and benefit of Mortgagee, its successors and assigns, forever subject to Permitted Liens and to satisfaction of the Obligations as provided in the Loan Agreement.

This Mortgage is executed and delivered by Mortgagor to secure the following obligations (collectively referred to herein as the "Obligations"): (a) all Loans, Letters of Credit and all other obligations, liabilities and

indebtedness of every kind, nature and description owing by any or all of Borrowers to Mortgagee, including principal, interest, charges, fees, costs and expenses, however evidenced, whether as principal, surety, endorser, guarantor or otherwise, arising under the Loan Agreement, this Mortgage or any of the other Loan Documents or on account of any Letter of Credit, whether now existing or hereafter arising, whether arising before, during or after the initial or any renewal term of the Loan Agreement or after the commencement of any case with respect to a Borrower under the United States Bankruptcy Code or any similar statute (including the payment of interest and other amounts which would accrue and become due but for the commencement of such case, whether or not such amounts are allowed or allowable in whole or in part in such case), whether direct or indirect, absolute or contingent, joint or several, due or not due, primary or secondary, liquidated or unliquidated, or secured or unsecured, (b) all obligations, liabilities and indebtedness of every kind, nature and description owing by any or all of Borrowers or Guarantors to Mortgagee arising under or pursuant to any Bank Products, whether now existing or hereafter arising, but in the case of this clause (b) only to the extent set forth in the Loan Agreement and (c) any amount that may be advanced by Mortgagee in protection of the Property or this Mortgage.

Without limiting the generality of the foregoing, the Obligations include, without limitation:

(A) all obligations, liabilities and indebtedness of Borrowers arising pursuant to the Revolving Loans (involving advances, repayments and readvances), and the Letters of Credit to or for the account of or otherwise owed by Borrowers and Term Loans;

(B) all obligations, liabilities and indebtedness of Borrowers to Mortgagee arising under or pursuant to any Bank Products, whether now existing or hereafter arising (subject to the conditions and limitations set forth in the Loan Agreement), and

(C) all interest, costs and expenses (including reasonable attorneys' fees and expenses), other charges and fees provided to be paid by Mortgagor herein and in the other Loan Documents, advances made by Mortgagee to protect or preserve the Property, any part thereof, or the interests of Mortgagee therein or for payment of taxes, assessments, insurance premiums and other amounts as provided therein and herein;

provided, however, that the maximum principal amount of the Obligations at any time secured hereby shall be the principal sum not to exceed TWELVE MILLION FIVE HUNDRED THOUSAND DOLLARS (\$12,500,000.00), including present and future obligations, at any time and from time to time outstanding, plus all interest under the Loan Documents, costs and expenses (including reasonable attorneys' fees and expenses), other charges and fees provided to be paid in the Loan Documents and herein, advances made by Mortgagee to protect or preserve the Property, any part thereof, or the interests of Mortgagee therein or for payment of taxes, assessments, insurance premiums and other amounts as provided therein and herein. In no event shall the limitation on the principal amount of Obligations secured hereby limit or impair the security interests and liens of Mortgagee in property of Mortgagor as provided under the other Loan Documents.

PROVIDED ALWAYS, that upon termination of the Commitments, payment and satisfaction of all Obligations in full, termination, collateralization or expiration of all Letters of Credit and Bank Product collateralization, then the estate hereby granted shall cease, terminate and become void, but otherwise shall remain in full force and effect. Upon satisfaction of the foregoing conditions, Mortgagee shall execute and deliver such discharges as may be required to release the lien of this Mortgage.

MORTGAGOR DOES HEREBY FURTHER COVENANT AND AGREE AS FOLLOWS:

1. Payment and Performance. Mortgagor shall perform and observe and shall comply with all provisions of the Loan Documents and shall promptly pay to the Mortgagee all Obligations required to be paid by Mortgagor under the Loan Documents when payment shall become due.

2. Status of Title. General Representations, Warranties and Covenants. Mortgagor represents, warrants and covenants that (a) Mortgagor is and at all times shall continue to be lawfully seized of an indefeasible estate in fee simple in its portion of the Land and the buildings and improvements thereon, has good and absolute title to the Property and has good right, full power and lawful authority to convey, assign, mortgage or encumber the Property as provided herein; (b) the Property is and at all times shall continue to be free and clear of all liens, security interests, and encumbrances whatsoever, except for Permitted Liens; (c) Mortgagor will maintain and preserve the lien of this Mortgage as a first and prior lien, subject only to the Permitted Liens; and (d) this Mortgage is and at all times shall continue to constitute legal, valid and binding obligations of Mortgagor, enforceable in accordance with the terms contained herein (except as enforceability may be limited by bankruptcy, insolvency or similar laws affecting the enforcement of creditors' rights generally), and the execution and delivery hereof by Mortgagor does not contravene any contract or agreement to which Mortgagor is a party or by which Mortgagor or any of its properties may be bound and, to Mortgagor's knowledge, does not contravene any law, order, decree, rule or regulation to which Mortgagor is subject.

3. Compliance with Laws. Mortgagor represents, warrants and covenants that it is and will continue to be in material compliance with laws, per the terms and conditions of the Loan Agreement, in (but not limited to) Section 9.1.13 of the Loan Agreement.

4. Taxes and Other Charges.

(a) Mortgagor shall pay, or cause to be paid, prior to the time any interest or penalty may be imposed due to late payment, all taxes, assessments, water rates, sewer rentals, dues, charges, fees, levies, fines, impositions, liabilities, obligations and encumbrances and other charges of every nature and to whomever assessed that may now or hereafter be levied or assessed upon the Property or any part thereof, or upon Mortgagor's interest in the Rents thereof, or upon this Mortgage, the Obligations or upon or against the interest of Mortgagee in the Property, whether any or all of such items be levied directly or indirectly, as well as income taxes, assessments and other governmental charges levied and imposed by the United States of America or any state, county, municipality or other taxing authority upon or against Mortgagor or in respect of the Property (all of the foregoing is collectively referred to as "Taxes" or individually, as a "Tax"), and Mortgagor shall deliver to Mortgagee receipted bills evidencing payment therefor. Notwithstanding anything to the contrary contained herein, Mortgagor shall have the right, at its own expense with prior written notice to Mortgagee, by appropriate proceedings duly instituted and diligently prosecuted, to contest in good faith the validity or amount of any such Taxes in the manner provided by law, in which event, Mortgagor shall:

- (i) pay in full, under protest in the manner provided by law, any Tax that Mortgagor may desire to contest, or
- (ii) withhold the payment thereof, if contest of any Tax may be made without the payment thereof; provided, however, that:
 - (A) such contest may be pursued at all times without Mortgagor risking the sale or forfeiture of the Property or any part thereof, or any interest therein, to satisfy such Tax;
 - (B) Mortgagor has, prior to the date the amount of such Tax shall be increased by reason of interest, penalties or costs, notified Mortgagee in writing of the intention of Mortgagor to contest the same;
 - (C) Mortgagor shall have furnished Mortgagee, from time to time as Mortgagee may reasonably request, such security or bond or indemnification satisfactory to Mortgagee for the final payment and discharge thereof; and
 - (D) in the event of a ruling or adjudication adverse to Mortgagor, Mortgagor shall promptly pay such Tax, plus any interest, penalty or additional charge thereon; and
 - (E) all costs and expenses incidental to any such contest shall be paid by Mortgagor.

(b) Notwithstanding anything to the contrary contained herein, in order to more fully protect the security afforded hereby, at Mortgagee's request and after the occurrence and during the continuance of an Event of Default, Mortgagor shall pay to Mortgagee (or, at its option, Mortgagee may charge any account of Mortgagor or any of its affiliates maintained with Mortgagee or establish a reserve against loans otherwise available to Mortgagor or its affiliates) together with, and in addition to the periodic installments of principal and interest payable on the Obligations, a sum equal to one-twelfth (1/12) of the annual Taxes, municipal water rates, sewer rents and assessments, if any, levied or to be levied against the Property and of the fire and other hazard insurance premiums next becoming due (all hereinafter referred to as the "Charges") all as estimated by Mortgagee, so that Mortgagee shall have sufficient funds to pay the Charges on the first (1st) day of the month preceding the month in which they become due. If, from time to time, Mortgagee shall determine that the balance of the funds held by it to pay the Charges is or will be insufficient to pay any of the Charges when the same shall become due, Mortgagor shall pay to Mortgagee, on demand, any amount necessary to remedy any deficiency. Mortgagee shall hold all amounts to pay the Charges before same become delinquent, with the right, however, of Mortgagee to apply, after the occurrence and during the continuance of an Event of Default, any sum so received as hereinafter provided. If, after the occurrence and during the continuance of an Event of Default, there is a public sale of the Property covered hereby, or if Mortgagee acquires any of the Property otherwise after the occurrence and during the continuance of an Event of Default, then Mortgagee shall have the right to apply the balance then remaining in the funds accumulated to pay the Charges, either as a credit against the balance of the Obligations then remaining unpaid or to the payment of any of the Charges without any obligation to account therefor to Mortgagor. The funds held by Mortgagee under this Section may be commingled with the general funds of Mortgagee who shall not be liable for interest thereon. Nothing contained in this Section shall be deemed to limit Mortgagee's right under the Loan Agreement to establish, at any time while the Obligations remain outstanding, a reserve to pay the Charges against loans otherwise

available to the Mortgagor, it being understood and agreed by Mortgagor that the right of Mortgagee to establish an escrow under this Section shall be an alternative to and not in lieu of Mortgagee's right to establish such a reserve.

(c) Mortgagor shall not claim, demand or be entitled to receive any credit against the principal or interest payable on the Obligations for the taxes, assessments or similar impositions assessed against the Property or any part thereof or that are applicable to the Obligations or to the interest in the Property of Mortgagee. No deduction shall be claimed from the taxable value of the Property or any part thereof by reason of the Obligations, this Mortgage or any other instrument securing the Obligations.

5. Mechanics' and Other Liens. Mortgagor shall not permit any mechanics' or other liens, other than Permitted Liens, to be filed or to exist against the Property by reason of work, labor, services or materials supplied or claimed to have been supplied to, for or in connection with the Property or to Mortgagor or anyone holding the Property or any part thereof through or under Mortgagor; provided, however, that if any such lien shall at any time be filed, Mortgagor shall, within ten (10) days after notice of the filing thereof but subject to the right of contest as set forth herein, cause the same to be discharged of record by payment, deposit, bond, order of a court of competent jurisdiction or otherwise. Notwithstanding anything to the contrary contained herein, Mortgagor shall have the right, at its own expense and with written notice to Mortgagee, to contest any such liens if Properly Contested (as defined in the Loan Agreement).

6. Insurance. Mortgagor shall, at all times, maintain insurance in accordance with the terms and conditions of the Loan Agreement, specifically, but not limited, to Sections 8.6.2 and 10.1.7 of the Loan Agreement.

7. Eminent Domain. Mortgagor, within seven (7) days of obtaining knowledge of the institution of any eminent domain or other proceedings for the condemnation of the Property, or any portion thereof, shall notify Mortgagee of the pendency of such proceedings. Subject to Section 8.6.2 of the Loan Agreement, Mortgagee shall be entitled to all compensation awards, damages, claims, rights of action and proceeds of, or on account of, any damage or taking through eminent domain or other condemnation proceedings and is hereby authorized, at its option, to commence, appear in and prosecute in its own or Mortgagor's name any action or proceeding relating to eminent domain or condemnation and to settle or compromise any claim in connection therewith, with the consent of Mortgagor. Subject to Section 8.6.2 of the Loan Agreement, all such compensation awards, damages, claims, rights of action and proceeds, and any other payments or relief, and the right thereto, are included in the Property and Mortgagee, after deducting therefrom all its reasonable expenses actually incurred, including reasonable attorneys' fees and expenses, may release any monies received by it to Mortgagor without affecting the lien of this Mortgage or may apply the same, in such manner as Mortgagee shall determine, to the reduction of the Obligations. Subject to applicable law, any balance of such monies then remaining shall be paid to Mortgagor. Mortgagor agrees to execute such further assignments of any compensation awards, damages, claims, rights of action and proceeds as Mortgagee may reasonably require, each in form and substance reasonably acceptable to Mortgagor and Mortgagee. Notwithstanding any such condemnation, Mortgagor shall continue to pay interest on the entire unpaid principal amount of the Obligations. If prior to the receipt by Mortgagee of such award or payment the Property shall have been sold on foreclosure of this Mortgage, Mortgagee shall have the right to receive said award or payment to the extent of any deficiency found to be due upon such sale, with legal interest thereon, whether or not a deficiency judgment on this Mortgage shall have been sought or recovered or denied, and reasonable attorneys' fees, costs and disbursements incurred by Mortgagee in connection with the collection of such award or payment.

8. Care of Property.

(a) Mortgagor shall preserve and maintain, or cause to be preserved and maintained, the Property, including all appurtenances thereto, in good and substantial repair and condition, reasonable wear and tear and damage from casualty excepted, and in material compliance with the requirements, if any, of the Permitted Liens, at its own cost, and will from time to time make, or cause to be made, all repairs, replacements, renewals and payments necessary to continue to maintain the Property in such state of repair, condition and compliance. Mortgagor shall not permit, commit or suffer any material waste, impairment or deterioration of the Property or of any part thereof, reasonable wear and tear excepted, and will not take any action which will increase the risk of fire or other hazard to the Property or to any part thereof.

(b) Except as otherwise provided in this Mortgage or the Loan Agreement, no part of the Property shall be removed, demolished or altered, without the prior written consent of Mortgagee. Mortgagor shall have the right, without such consent, to remove and dispose of free from the lien of this Mortgage any part of the Property consisting of equipment and fixtures as from time to time may become worn out or obsolete, provided, that, either simultaneously with or prior to such removal, any such property shall be replaced with other property of equal utility and of a value at least equal to that of the replaced equipment or fixtures when first acquired and free from any security interest of any other person, except as otherwise provided in the Loan

Agreement. Any such substituted property shall be deemed to be part of the Property and shall be subject to the lien of this Mortgage.

(c) Mortgagee may enter upon and inspect the Property, prior to the occurrence of an Event of Default, during reasonable times, upon reasonable notice, and after the occurrence and during the continuance of an Event of Default, at any time, or in the case of emergency, at any time during the term of this Mortgage.

(d) If any part of the Property shall be lost, damaged or destroyed by fire or any other cause, Mortgagor shall give written notice thereof to Mortgagee within seven (7) days of such event. The insurance proceeds payable in connection with any such event shall be applied in accordance with Section 8.6.2 of the Loan Agreement.

9. Rents and Leases.

(a) Subject to the terms of this Section and Paragraph E of the granting clauses above, Mortgagee waives the right to enter the Property for the purpose of collecting the Rents thereon, and the right to collect the Rents. Mortgagor shall hold the current month's Rents, or an amount sufficient to discharge all current sums due on the Obligations, in trust for use in the payment of the Obligations. The right of Mortgagor to collect the Rents may be revoked by Mortgagee upon the occurrence and during the continuance of any Event of Default by Mortgagor under the terms of this Mortgage by giving notice of such revocation to Mortgagor. Following such notice, Mortgagee may retain and apply the Rents toward payment of the Obligations in such priority and proportions as Mortgagee, in its discretion, shall deem proper.

(b) Mortgagor shall not, without the prior written consent of Mortgagee, which shall not be unreasonably withheld, conditioned or delayed, make or suffer to be made, any Leases or materially amend, cancel, modify, accept the surrender of, subordinate, accelerate the payment of rents to, or materially adversely change the terms of any renewal option of any Leases or accept prepayments of installments of Rent for a period of more than one (1) month in advance (except that Mortgagor may accept security deposits in respect of the Leases in excess of such amount) or further assign the whole or any part of the Rents or permit or suffer an assignment or sublease. In respect of any Lease relating to the Property, Mortgagor will (i) fulfill or perform each and every provision thereof on its part to be fulfilled or performed; (ii) promptly send copies of all notices of default which it shall send or receive thereunder to Mortgagee, and (iii) enforce, short of termination thereof, the performance or observance of the provisions thereof.

(c) Mortgagee or a receiver, while in possession of the Property, shall have the right to manage same, to make, cancel, enforce or modify Leases, to obtain and evict tenants, to fix or modify rents, to demolish any part or all of the Property that in the judgment of Mortgagee may be in an unsafe condition and dangerous to life and property, and to make repairs to the Property all as shall be, in Mortgagee's or receiver's discretion, necessary to protect Mortgagee's interests hereunder. Mortgagee may advance monies to the receiver for such purposes and any monies so expended or advanced shall be added to the Obligations and secured by this Mortgage. Mortgagee, at its option, may repay such monies out of the Rents actually collected. Mortgagee or receiver shall have the right to collect both (i) the Rents which may have accrued before the occurrence of an Event of Default hereunder or from the time Mortgagee or receiver takes possession, but are unpaid at the time of such Event of Default or taking of possession, and (ii) the Rents which may accrue after such Event of Default or taking of possession. Mortgagee, or receiver, while in possession of the Property, shall only be liable to account for Rents actually received.

(d) The taking of possession and collection of Rents by Mortgagee as aforesaid shall not be construed to be an affirmation of any Lease of the Property or any part thereof, and Mortgagee or any other purchaser at any foreclosure sale may (if otherwise entitled to do so) exercise the right to terminate any Lease as though such taking of possession and collection of Rents had not occurred.

(e) To the extent granted herein, Mortgagor shall, from time to time upon the request of Mortgagee, specifically assign to Mortgagee, as additional security hereunder, by an instrument in writing in such form as may be approved by Mortgagee and Mortgagor, all right, title and interest of Mortgagor in and to any and all Leases now or hereafter on or affecting the Property, together with all security therefor and all monies payable thereunder, subject to the conditional permission hereinabove given to Mortgagor to collect the rentals under any such Lease. Mortgagor shall also execute and deliver to Mortgagee any notification, financing statement or other document in form and substance reasonably acceptable to Mortgagee and Mortgagor, reasonably required by Mortgagee to perfect the foregoing assignment as to any such lease.

(f) Mortgagor represents that all Leases, if any exist, are presently in full force and effect and that to Mortgagor's knowledge, no default exists thereunder. As any such Lease shall expire, Mortgagor shall so notify Mortgagee in order that at all times Mortgagee shall have a current list of all Leases.

(g) The assignment contained in the granting clauses hereof shall not be deemed to impose upon Mortgagee any of the obligations or duties of Mortgagor provided in any such Lease (including, without limitation, any liability under the covenant of quiet enjoyment contained in any Lease in the event that any tenant shall have been joined as a party defendant in any action to foreclose under this Mortgage and shall have been barred and foreclosed thereby of all right, title and interest and equity of redemption in the Property or any part thereof), and Mortgagor shall comply with and observe its obligations as landlord under all Leases.

10. Environmental Matters. All environmental matters shall be governed by the terms and conditions of the Loan Agreement, specifically, but not limited to, Sections 9.1.14 and 10.1.5 of the Loan Agreement.

11. Further Assurances. At any time and from time to time, upon Mortgagee's reasonable request, Mortgagor shall make, execute and deliver, or cause to be made, executed and delivered, to Mortgagee and where appropriate shall cause to be recorded or filed, and from time to time thereafter to be re-recorded and refiled at such time and in such offices and places as shall be deemed desirable by Mortgagee, any and all such further mortgages, instruments or further assurances, financing statements, certificates and other documents, each in form and substance reasonably acceptable to Mortgagor and Mortgagee, as Mortgagee may reasonably consider necessary in order to effectuate, complete, or perfect, or to continue and preserve the Obligations of Mortgagor under this Mortgage and the other Loan Documents, and the lien of this Mortgage as a lien upon all of the Property, whether now owned or hereafter acquired by Mortgagor. Upon any failure by Mortgagor to do so, Mortgagee may make, execute, record, file, re-record or refile any and all such mortgages, instruments, certificates and documents for and in the name of Mortgagor, and Mortgagor hereby irrevocably appoints Mortgagee as agent and attorney-in-fact of Mortgagor to do so.

12. Assignment of Rents. The assignment of Leases and Rents contained in the granting clauses of this Mortgage shall be (a) fully operative without any further action on the part of either party, and specifically Mortgagee shall be entitled, at its option, upon the occurrence and during the continuance of an Event of Default, to all Rents from the property described in the granting clauses hereof whether or not Mortgagee takes possession of such property and (b) upon the occurrence and during the continuance of an Event of Default, this Mortgage shall constitute an irrevocable direction to and full authority to each lessee and sublessee under any Leases to pay all Rents to Mortgagee, without proof of the default relied upon and an automatic revocation of the permission hereby granted to Mortgagor to collect and use the Rents and any Rents collected by Mortgagor shall be held in trust for Mortgagee, and Mortgagor shall be a trustee with respect to all Rents received and shall hold these Rents for the account of Mortgagee, to be applied toward the Obligations. Mortgagor hereby irrevocably authorizes each lessee, sublessee, guarantor, person and entity to rely upon and comply with any notice or demand by Mortgagee for the payment to Mortgagee of any Rents due or to become due following the occurrence and during the continuance of an Event of Default. Mortgagor hereby further grants to Mortgagee the right following the occurrence and during the continuance of an Event of Default (i) to enter upon and take possession of the Property for the purpose of collecting the said Rents, (ii) to dispossess by the usual summary proceedings any tenant defaulting in the payment thereof to Mortgagee, (iii) to let the Property or any part thereof, and (iv) to apply said Rents, after payment of all reasonably necessary charges and expenses, on account of the Obligations. Such assignment and this Mortgage shall continue in effect until the Obligations secured hereby are indefeasibly paid in full, the execution of this Mortgage constituting and evidencing the irrevocable consent of Mortgagor to the entry upon and taking possession of the Property by Mortgagee following the occurrence and during the continuance of an Event of Default pursuant to this Mortgage, whether or not foreclosure has been instituted. Neither the exercise of any rights under this Paragraph by Mortgagee nor the application of any such Rents, income or other benefits to the Obligations secured hereby, shall cure or waive any default or notice of Event of Default hereunder or invalidate any act done pursuant hereto or to any such notice, but shall be cumulative of all other rights and remedies.

13. After-Acquired Property. To the extent permitted by and subject to applicable law, the lien of this Mortgage will automatically attach, without further act, to all after-acquired property located in or on, or attached to, or used or intended to be used in connection with, or with the operation of, the Property or any part thereof.

14. Right to Remedy Defects. Subject to Mortgagor's right to contest the amount and validity thereof as set forth herein and in the Loan Agreement, if Mortgagor defaults in the payment of any Tax, assessment, encumbrance or other imposition, in its obligation to furnish insurance hereunder, or in the performance or observance of any other covenant, condition or term in this Mortgage or the other Loan Documents, without limiting Mortgagee's rights to establish availability reserves for any of such matters at any time, Mortgagee may (but shall not be obligated to) advance funds for the account of Mortgagor to pay any such charges or items or perform or observe the same. In addition, Mortgagee may at any time and from time to time advance such additional sums as Mortgagee in its reasonable discretion may deem necessary to preserve and protect the Property or any portion thereof and to protect the security of this Mortgage. All such advanced costs and expenses actually incurred by Mortgagee in connection therewith shall be due and payable on demand, shall bear interest at the post-default rate of interest payable under the Loan Agreement, and shall be added to the Obligations and secured by the lien of this Mortgage. Mortgagee is hereby empowered to enter and authorize others to enter upon the Property or any part thereof for the purpose of performing or observing any such defaulted covenant, condition or term, without thereby becoming liable to Mortgagor or any person in possession holding under Mortgagor, except in connection with Mortgagee's or any of its agents' gross negligence or willful misconduct. Payment by Mortgagee as authorized herein to the holder of any prior lien shall entitle Mortgagee to become subrogated to the claims of such party to the extent of all such payments. The production of a receipt by Mortgagee shall be prima facie proof of a payment or advance authorized hereby and the amount and validity thereof.

15. Default. An Event of Default under the Loan Agreement shall constitute an Event of Default under this Mortgage.

16. Remedies on Default. Upon the occurrence and during the continuance of any Event of Default:

(a) Mortgagee shall have the option, in its sole discretion, and without further notice to or demand upon Mortgagor, to (i) take possession of the Property; (ii) file a complaint or complaints based upon this Mortgage and proceed thereon to judgment, execution, and sale for the collection of all sums unpaid and secured hereby, together with interest, reasonable costs, expenses actually incurred by Mortgagor, and an attorneys' collection fee as permitted by law, or institute any other proceeding at law or in equity to foreclose this Mortgage to recover the sums due or to become due Mortgagee, including all sums unpaid and secured hereby, together with interest, reasonable expenses and costs actually incurred by Mortgagor, and an attorneys' collection fee as permitted by law; (iii) have a receiver appointed to take possession, operate, manage, lease, sell, repair, or otherwise deal with the Property; (iv) exercise the power of sale granted herein and (v) exercise all other rights and remedies provided in this Mortgage, and all related agreements, or which may be available to Mortgagee at law or in equity. All rights and remedies of Mortgagee shall be cumulative and concurrent and may be pursued singly, successively or together, at Mortgagee's sole discretion, and may be exercised at one time and from time to time.

(b) Mortgagee shall have the right, from time to time, to bring an appropriate action to recover any sums required to be paid by Mortgagor under the terms of this Mortgage, as they become due, without regard to whether or not the principal indebtedness or any other sums secured by this Mortgage shall be due, and without prejudice to the right of Mortgagee thereafter to bring an action to foreclose this Mortgage or any other action for any default by Mortgagor existing at the time the earlier action was commenced.

(c) Neither Mortgagor nor any other person now or hereafter obligated for payment of all or any part of the sums now or hereafter secured by this Mortgage shall be relieved of such obligation by reason of the failure of Mortgagee to comply with any request of Mortgagor or of any other person so obligated to take action to foreclose on this Mortgage or otherwise enforce any provisions of the Mortgage, or by reason of the release, regardless of consideration, of all or any part of the security held for the Obligations secured by this Mortgage, or by reason of any agreement or stipulation between any subsequent owner of the Property and Mortgagee extending the time of payment or modifying the terms of the Mortgage without first having obtained the consent of Mortgagor or such other person; and in the latter event, Mortgagor and all such other persons shall continue to be liable to make payments according to the terms of any such extension or modification agreement, unless expressly released and discharged in writing by Mortgagee. No release of all or any part of the security as aforesaid shall in any way impair or affect the lien of this Mortgage or its priority over any subordinate lien.

(d) With respect to the personal property in which a security interest is herein granted, Mortgagee may exercise any or all of the rights accruing to a secured party under this Mortgage, the Uniform Commercial Code as applicable in the jurisdiction in which the Property is located (the "UCC") and any other applicable law. Mortgagor shall, if Mortgagee requests, assemble all such personal property and make it available to Mortgagee at a place or places to be reasonably designated by Mortgagee. Any notice required to be given by Mortgagee of a public or private sale, lease or other disposition of the personal property or any other intended action by Mortgagee may be served by registered or certified mail, return receipt requested, directed to Mortgagor at the address of Mortgagor last known to Mortgagee, and shall be deemed complete five (5) days after the same shall be posted and shall constitute reasonable and fair notice to Mortgagor of any such action.

(e) Each right, power and remedy of Mortgagee provided for in this Mortgage, in the other Loan Documents or now or hereafter existing at law or in equity or by statute or otherwise, shall be cumulative and concurrent and shall be in addition to every other right, power or remedy provided for in this Mortgage, the other Loan Documents, or now or hereafter existing at law or in equity or by statute or otherwise.

17. Possession by Mortgagee. If Mortgagee shall take possession of the Property as aforesaid, Mortgagee may: (a) hold, manage, operate, and lease the same, whether to Mortgagor or any other person or persons, on such terms and for such periods of time as Mortgagee may deem proper, and the provisions of any

lease made by Mortgagee pursuant hereto shall be valid and binding upon Mortgagor notwithstanding that Mortgagee's rights of possession may terminate or this Mortgage may be satisfied of record prior to the expiration of the term of such lease; (b) make such repairs thereto as Mortgagee may deem reasonably necessary for the repositioning of the Property; (c) demolish any part or all of the Improvements situated upon the Property which in the judgment of Mortgagee may be in unsafe condition and dangerous to life and property; and (d) collect the Rents arising from the Property, past due and thereafter becoming due, and apply the same, in such order of priority as Mortgagee may determine, to the payment of all charges and commissions incidental to the collection of Rents and the management of the Property and all other sums, obligations and charges secured hereby. All monies advanced by Mortgagee for the purposes aforesaid and not repaid out of the Rents collected shall be repaid by Mortgagor to the Mortgagee, on demand therefore, together with interest thereon at the highest rate being charged on the Obligations, and shall be added to the Obligations secured by this Mortgage. The taking of possession and collection of Rents by Mortgagee as aforesaid shall not be construed to be an affirmation of any lease of the Property or any part thereof, and Mortgagee or any other purchaser at any foreclosure sale may (if otherwise entitled to do so) exercise the right to terminate any such lease as though such taking of possession and collection of Rents had not occurred.

18. Separate Parcels. If more than one property, lot or parcel is covered by this Mortgage, and if this Mortgage is foreclosed upon, or judgment is entered upon any Obligation secured hereby, execution may be made upon any one or more of the properties, lots or parcels and not upon the others, or upon all of such properties or parcels, either together or separately, and at different times or at the same time, and execution sales may likewise be conducted separately or concurrently, in each case at Mortgagee's election.

19. Waivers. The granting of an extension or extensions of time by Mortgagee with respect to the performance of any provision of this Mortgage, or any obligation or agreement secured hereby on the part of Mortgagor to be performed, or the taking, release, discharge or compromise of any additional security, or the waiver by Mortgagee or failure by Mortgagee to enforce any provision of this Mortgage to declare a default with respect thereto, shall not operate as a waiver of any subsequent Event of Default or defaults or affect the right of Mortgagee to exercise all rights and remedies stipulated herein and therein, and to enforce strict performance hereof without prior notice of intention to do so. To the fullest extent permitted under applicable law, Mortgagor hereby waives and releases: (a) all errors, defects and imperfections in any proceeding instituted by the Mortgagee under this Mortgage and/or any other of the Loan Documents; (b) all benefit that might accrue to Mortgagor by virtue of any present or future law exempting the Property, or any part of the proceeds arising from any sale thereof, from attachment, levy or sale on execution; (c) any present or future statute of limitation or moratorium law or any other present or future law, regulation or judicial decision which provides for any stay of execution, marshalling of the Property or any other assets, exemption from civil process, redemption, extension of time for payment or valuation or appraisal of any portion of the Property; and (d) unless specifically and expressly required herein or in the Loan Agreement the right to receive any notice from the Mortgagee, including, without limitation, notice of Mortgagor's default or of Mortgagee's election to exercise, or Mortgagee's actual exercise, of any option under this Mortgage or under any of the other Loan Documents.

20. Governing Law. Except as otherwise expressly provided in any of the Loan Documents, in all respects, including all matters of construction, validity and performance, this Mortgage and the obligations arising hereunder shall be governed by, and construed and enforced in accordance with, the laws of the State of New York applicable to contracts made and performed in that state, and any applicable laws of the United States of America; except with respect to the creation, perfection and enforcement of liens and security interests, which shall be governed by and construed and enforced in accordance with the law of the state in which the Property is located (the "State").

21. Security Agreement Under the Uniform Commercial Code.

(a) This Mortgage constitutes not only a real property mortgage, but also a “security agreement” and a financing statement filed as a “fixture filing” within the meaning of the Uniform Commercial Code of the State (“UCC”). Mortgagor (as debtor) hereby grants, assigns, conveys, pledges, hypothecates, and transfers to Mortgagee (as secured party) as security for the prompt and complete payment and performance of the Obligations, a lien and security interest in all of Mortgagor’s right, title and interest in and to all fixtures, machinery, appliances, equipment, furniture and personal property of every nature whatsoever constituting part of the Property, subject only to the Permitted Liens. Nothing in this Section 21(a) shall limit in any manner whatsoever any right Mortgagee may have under the Loan Agreement.

(b) Mortgagor hereby authorizes the filing of any and all such documents, including, without limitation, financing statements pursuant to the UCC, as Mortgagee may request to preserve and maintain the priority of the lien and security created hereby on the portion of Property which may be deemed personal property or fixtures, and shall pay to Mortgagee on demand any expenses incurred by Mortgagee in connection with the preparation, execution and filing of any such documents. Mortgagor hereby authorizes and empowers Mortgagee to execute and file, on Mortgagor’s behalf, all financing statement amendments and refilings and continuations thereof as Mortgagee deems necessary or advisable to create, preserve and protect said lien and security interest. When and if Mortgagor and Mortgagee shall respectively become the Debtor and Secured Party in any UCC financing statement affecting the Property, this Mortgage shall be deemed a security agreement as defined in said UCC and the remedies for any violation of the covenants, terms and conditions of the agreements herein contained shall be (i) as prescribed herein and in the other Loan Documents, (ii) governed by general law, or (iii) as to such part of the security which is also reflected in said financing statement, governed by the specific statutory provisions now or hereafter enacted and specified in the UCC, all at Mortgagee’s election.

(c) Mortgagor and Mortgagee agree that the filing of a financing statement in the records normally having to do with personal property shall never be construed as in any way derogating from or impairing the express declaration and intention of the parties hereto, hereinabove stated, that everything used in connection with the production of income from the Property and/or adapted for use therein and/or which is described or reflected in this Mortgage is, and at all times and for all purposes and in all proceedings both legal or equitable, shall be regarded as part of the real estate encumbered by this Mortgage irrespective of whether (i) any such item is physically attached to the Improvements, (ii) serial numbers are used for the better identification of certain equipment items capable of being thus identified in a recital contained herein or in any list filed with Mortgagee, or (iii) any such item is referred to or reflected in any such financing statement so filed at any time. Similarly, the mention in any such financing statement of (A) rights in or to the proceeds of any fire and/or hazard insurance policy, or (B) any award in eminent domain or condemnation proceedings for a taking or for loss of value, or (C) Mortgagor’s interest as lessor in any present or future lease or rights to income growing out of the use and/or occupancy of the Property, whether pursuant to lease or otherwise, shall never be construed as in any way altering any of the rights of Mortgagee as determined by this instrument or impugning the priority of the lien and security interest granted hereby or by any other recorded document, but such mention in the financing statement is declared to be for the protection of Mortgagee in the event any court or judge shall at any time hold with respect to (A), (B) and (C) that notice of Mortgagee’s priority of interest to be effective against a particular class of persons, including but not limited to the federal government and any subdivisions or entity of the federal government, must be filed in the UCC records.

(d) This Mortgage, to the extent that it conveys or otherwise deals with property or with items of property which are or which may become fixtures constitutes a financing statement filed and indexed as a fixture filing in the real estate records of the recorder of the county in which such property is located with respect to any and all fixtures and with respect to any personal property that may now be or hereafter become fixtures. For the purposes of the foregoing, Mortgagor is the debtor (with its address as first set forth above) and Mortgagee is the secured party (with its address as first set forth above). Information concerning the security interest created by this Mortgage may be obtained from Mortgagee, as secured party, at its address first set forth above. Mortgagor is the record owner of the Property. This Mortgage covers goods which are or are to become Fixtures. 7124 Grade Lane LLC is a limited liability company organized under the laws of the Commonwealth of Kentucky. Mortgagor's Organizational Identification Number appears on the cover page of this Mortgage. If any item of property hereunder also constitutes collateral granted to Mortgagee under any other mortgage, agreement, document or instrument, in the event of any conflict between the provisions of this Mortgage and the provisions of such other mortgage, agreement, document or instrument relating to such collateral, the provision or provisions selected by Mortgagee shall control with respect to such collateral.

22. Binding Effect. The covenants and agreements herein contained shall bind and inure to the benefit of the respective parties, their heirs, personal representatives, successors and assigns. No rights are intended to be granted hereunder for the benefit of any third party donee, creditor or incidental beneficiary.

23. Delegation of Duties. No delegation of any kind to Mortgagee of Mortgagor's duty to perform any obligation arising in connection with the Property is intended by this Mortgage.

24. Searches and Filing Fees. Mortgagor shall upon demand pay the cost of title and lien searches, title insurance premiums, charges for recording this Mortgage, including any impositions, taxes or similar charges imposed by any governmental authority in connection with the recordation of this Mortgage, or the issuance of any note or other instrument secured hereby, as well as all other reasonable costs and expenses actually incurred by Mortgagee in connection with proceedings to recover any sums secured hereby. Mortgagor shall also pay any fees and charges of Mortgagee in connection with the satisfaction of this Mortgage of record.

25. Declaration of No Set-Off. If requested at any time by Mortgagee, Mortgagor shall promptly (and in any event within ten days after notice) furnish Mortgagee or Mortgagee's designee with a Declaration of No Set-Off, in form and substance reasonably satisfactory to Mortgagor and Mortgagee or any such designee, certifying, in a writing duly acknowledged, the amount of principal, interest and other charges then owing under the Loan Documents, and whether there are any set-offs or defenses against the same, and, if so, the nature thereof.

26. Notices. All notices, requests and demands hereunder shall be in writing and deemed to have

been given or made if delivered in accordance with Section 12.3.1 of the Loan Agreement.

27. Captions. The headings of any provision hereof are for convenience only and shall not limit or expand or otherwise affect any provisions hereof.

28. Construction. The words "Mortgagor" and "Mortgagee" include singular or plural, individual or entity, and the respective heirs, executors, administrators, permitted successors and permitted assigns of Mortgagor, and Mortgagee, as the case may be. The use of any gender applies to all genders.

29. Future Advances. This Mortgage covers present and future advances made by Mortgagee to or for the benefit of Mortgagor pursuant to the Loan Agreement which will not at any time exceed the aggregate outstanding principal balance of \$12,500,000.00. It is the intent of the parties hereto that the lien of such future advances shall relate back to the date of recording of this Mortgage. Mortgagor covenants not to issue a cut-off notice to Mortgagee until all Obligations have been satisfied in full.

30. Post-Judgment Interest, Rights and Remedies; Non-Merger. It is the intention of the parties hereto that (a) the interest rates set forth in the Loan Agreement and any evidence of indebtedness issued pursuant thereto shall survive maturity, acceleration and entry of judgment, and continue to accrue on the outstanding principal balance of the Obligations until such Obligations are paid in full, and (b) the covenants and obligations of the Mortgagor and the rights and remedies of the Mortgagee hereunder and under the Loan Agreement and any other instrument or obligation executed pursuant thereto shall not merge with or be extinguished by the entry of judgment hereunder or thereunder and such covenants, obligations, rights and remedies shall survive any entry of judgment and continue until payment in full of the indebtedness secured hereby.

31. Conflicts. In case of any conflict between the terms and provisions of this Mortgage and the Loan Agreement with respect to the same matter, the provisions of the Loan Agreement shall control. Consistent additional provisions shall not be considered conflicting provisions for purposes of this Section.

32. WAIVER OF JURY TRIAL. MORTGAGOR HEREBY WAIVES TRIAL BY JURY IN ANY LITIGATION IN ANY COURT WITH RESPECT TO, IN CONNECTION WITH, OR ARISING OUT OF THIS MORTGAGE OR THE OTHER LOAN DOCUMENTS.

33. WAIVER OF COUNTERCLAIMS. MORTGAGOR WAIVES ALL RIGHTS TO INTERPOSE ANY CLAIMS, DEDUCTIONS, SETOFFS OR COUNTERCLAIMS OF ANY NATURE (OTHER THAN COMPULSORY COUNTERCLAIMS) IN ANY ACTION OR PROCEEDING WITH RESPECT TO THIS MORTGAGE, THE OBLIGATIONS, THE PROPERTY OR ANY MATTER ARISING THEREFROM OR RELATING HERETO OR THERETO.

34. Business Purposes. Mortgagor covenants and agrees that the indebtedness secured by this Mortgage and the proceeds of such indebtedness are for business purposes only.

35. Changes, Etc. Neither this Mortgage nor any term hereof may be changed, waived, discharged or terminated orally, or by any action or inaction, but only by an instrument in writing signed by Mortgagor and Mortgagee. The modification hereof or of any of the Loan Documents or the release of any part of the Property from the lien hereof shall not impair the priority of the lien of this Mortgage.

36. Execution-Multiple Originals. This Mortgage may be executed in any number of duplicate originals and each such multiple original shall be deemed to constitute but one and the same instrument, any one of which shall be admissible to prove the terms hereof.

37. Multisite Real Estate Transaction. Mortgagor acknowledges that this Mortgage is one of a number of other security documents that secure the Obligations. Mortgagor agrees that the lien of this Mortgage shall be absolute and unconditional and shall not in any manner be affected or impaired by any acts or omissions whatsoever of Mortgagee and without limiting the generality of the foregoing, the lien hereof shall not be impaired by any acceptance by Mortgagee of any security for or guarantees of any of the Obligations hereby secured, or by any failure, neglect or omission on the part of the Mortgagee to realize upon or protect any Obligation or indebtedness hereby secured or any collateral security therefor, including the other security documents. The lien hereof shall not in any manner be impaired or affected by any release (except as to the property released), sale, pledge, surrender, compromise, settlement, renewal, extension, indulgence, alteration, changing, modification or disposition of any of the Obligations secured or any of the collateral security therefor, including the other security documents or of any guarantee thereof, and Mortgagee may at its discretion foreclose, exercise any power of sale, or exercise any other remedy available to it under any or all of the other security documents without first exercising or enforcing any of its rights and remedies hereunder. Such exercise of Mortgagee's rights and remedies under any or all of the other security documents shall not in any manner impair the indebtedness hereby secured or the lien of this Mortgage and any exercise of the rights or remedies of Mortgagee shall not impair the lien of any other security documents or any of Mortgagee's rights and remedies thereunder. Mortgagor specifically consents and agrees that Mortgagee may exercise its rights and remedies hereunder and under the other security documents separately or concurrently and in any order that it may deem appropriate, and Mortgagor waives any rights of subrogation.

38. Guarantee Obligations. In addition to securing the direct obligations of Mortgagor, this Mortgage also secures the obligations of Borrowers. Mortgagor further agrees that Mortgagee may do any of the following without adversely affecting the validity or enforceability of this Mortgage: (a) release, surrender, exchange, compromise or settle the Obligations or any part thereof; (b) change, renew or waive the terms of the Obligations, or any part thereof, subject to the terms of the Loan Agreement; (c) change, renew or waive the terms of any Loan Document other than this Mortgage or any other note, instrument or agreement relating to the Obligations, such rights in Mortgagee to include, without limitation, the right to change the rate of interest charged with respect to the Obligations or any part thereof (in which event the obligations of Mortgagor shall be deemed also to include all interest at such changed rate); (d) any extension or indulgence with respect to the payment or performance of the Obligations or any part thereof; (e) enter into any agreement of forbearance with respect to the Obligations, or any part thereof; (f) release, surrender, exchange or compromise any security held by Mortgagee for any of the Obligations; (g) release any other person who is a guarantor or surety or other obligor of, or who has agreed to purchase, the Obligations or any part thereof; and (h) release, surrender, exchange or compromise any security or lien held by Mortgagee for the Obligations or any part thereof. Mortgagor agrees that Mortgagee may do any of the above as Mortgagee deems necessary or advisable, in Mortgagee's sole discretion, without giving any notice to Mortgagor, and that Mortgagor will remain liable for full payment and performance of the Obligations.

39. Certain Matters Relating to Property Located in the Commonwealth of Kentucky. With respect to the Property which is located in the Commonwealth of Kentucky, notwithstanding anything contained to the contrary:

(a) Future Advances. This Mortgage shall secure the payment of any and all renewals, extensions or amendments of the indebtedness secured hereby in whole or in part and any documents evidencing such indebtedness, including, without limitation, any and all renewals, extensions or amendments of, and replacements or substitutions for the Loan Agreement or the other Loan Documents, and no renewals or extensions shall be deemed a payment so as to discharge this Mortgage. As permitted by KRS 382.520, this Mortgage secures not only the initial advances under Loan Agreement and the other Loan Documents, but all future advances and all other additional indebtedness, whether direct, indirect, existing, future, contingent or otherwise, connected with or arising out of the Loan Agreement, as the same may be hereafter amended, to the extent of not more than \$12,500,000.00 and whether or not evidenced by notes, accounts or obligations of any kind whatsoever. It shall be a default under this Mortgage if Mortgagor requests a release, in the manner provided by KRS 382.520, of any portion of the liens securing any of the additional indebtedness secured by this Mortgage pursuant to this Mortgage prior to the date that all of the obligations secured by this Mortgage have been paid and discharged and the Loan Agreement and the other Loan Documents have been terminated, and Mortgagor hereby waives any and all right to request such a release to the maximum extent permitted by law.

(b) Revolving Loan. To the extent that the indebtedness evidenced by the Loan Agreement and the other Loan Documents evidencing part of the Obligations is deemed to be a “line of credit” or a “revolving credit plan” pursuant to KRS 382.385, Mortgagor and Mortgagee intend that this Mortgage secure the line of credit and the revolving credit plan, and the maximum credit limit of the line of credit or the revolving credit plan which may be outstanding at any time or times under the line or the plan and which is to be secured by this Mortgage is \$12,500,000.00. It shall be a default under this Mortgage if Mortgagor requests a release, in the manner provided by KRS 382.385, of any portion of the lien securing the line of credit or the revolving credit plan prior to the date that all of the Obligations have been paid and the Loan Agreement and the other Loan Documents have been terminated, and Mortgagor hereby waives any and all right to request such a release to the maximum extent permitted by law.

(c) Maturity Date: The maturity date of the Obligations secured by this Mortgage is the Commitment Termination Date.

Any inconsistency or conflict between this Section 39 and any other provision or terms contained herein shall be construed in favor of and governed by this Section 39.

[THE REMAINDER OF THIS PAGE HAS BEEN INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, this Mortgage has been duly authorized and has been executed and delivered by Mortgagor as of the date first written above.

7124 GRADE LANE LLC, a Kentucky limited liability company

BY: INDUSTRIAL SERVICES OF AMERICA, INC., a Florida corporation,
Manager

By: /s/ Todd L. Phillips

Todd L. Phillips, Chief Executive Officer, President and Chief Financial
Officer

STATE OF KENTUCKY)
)
COUNTY JEFFERSON)

Before me, a Notary Public in and for the State and County aforesaid, personally appeared Todd L. Phillips, known to me or proven by satisfactory evidence to be the Chief Executive Officer, President and Chief Financial Officer of Industrial Services of America, Inc., a Florida corporation, which is the Manager of 7124 Grade Lane LLC, a Kentucky limited liability company, who executed and acknowledged the foregoing instrument as his free act and deed and the free act and deed of such company.

IN WITNESS WHEREOF, I have set my hand and seal this 7th day of November, 2018.

/s/ Tracy Thompson Taylor

NOTARY PUBLIC

My commission expires: January 31, 2020

[SEAL]

This instrument prepared by:

/s/ Ikhwan A. Rafeek

Ikhwan A. Rafeek

OTTERBOURG P.C.

230 Park Avenue

New York, New York 10169

(212) 661-9100

EXHIBIT A

Description of Land

Located in Jefferson County, Kentucky:

Being all of Tract 1 as shown on approved Minor Subdivision Plat bearing Docket #10-81, attached to and made a part of deed recorded in Deed Book 5215, page 427, in the Office of the Clerk of Jefferson County, Kentucky.

Together With non-exclusive perpetual easement for ingress and egress over the property designated as Tract 2 on said Minor Subdivision Plat.

Being the same property acquired by 7124 Grade Lane LLC, a Kentucky limited liability company, by Quitclaim Deed dated May 5, 2009, of record in Deed Book 9391, Page 506, in the office aforesaid.

Industrial Services of America, Inc.

Announces Third Quarter 2018 Financial Results and New Credit Facility

LOUISVILLE, KY (November 13, 2018) -- Industrial Services of America, Inc. (NASDAQ: IDSA), (the "Company" or "ISA"), a company that buys, processes and markets ferrous and non-ferrous metals and other recyclable commodities, and buys used autos in order to sell used auto parts, today announced the filing with the U.S. Securities and Exchange Commission of its Form 10-Q for the quarter ended September 30, 2018.

ISA reported a 15.9% revenue increase and a \$1.2 million improvement in net income for the nine months ended September 30, 2018 compared to the same period in 2017.

The Company reported net income of \$356 thousand for the nine months ended September 30, 2018 compared to a net loss of \$825 thousand for the nine months ended September 30, 2017. Further, the Company reported Adjusted EBITDA of \$2.3 million during the nine months ended September 30, 2018, which marks a substantial improvement compared to Adjusted EBITDA of \$1.6 million during the nine months ended September 30, 2017. This improvement in operating performance was due in part to the successful restart of the Company's shredder in May 2017 as well as improvements in the Company's ferrous volumes and margins from 2017 to 2018. The restart of the Company's shredder led to favorable sales mix and improved margins. Net income was further strengthened by a non-recurring insurance settlement gain in the amount of \$487 thousand during the second quarter of 2018. This amount is excluded from Adjusted EBITDA. (See Non-GAAP Measures below.)

The Company reported a net loss of \$477 thousand for the three months ended September 30, 2018 compared to a net loss of \$177 thousand for the three months ended September 30, 2017. Further, the Company reported Adjusted EBITDA of \$363 thousand during the three months ended September 30, 2018 compared to Adjusted EBITDA of \$647 thousand during the three months ended September 30, 2017. The Company's results were negatively impacted during the third quarter of 2018 by recent global political events, such as tariffs, trade wars and other global economic events. Ferrous market prices and volumes were negatively impacted by economic stress in Turkey, one of the largest importers of United States ferrous scrap metal. Pricing and volumes were further challenged by uncertainty created by tariffs and threatened trade wars. Non-ferrous market prices and volumes were similarly impacted by tariffs and threatened trade wars, as well as certain restrictions placed by China on imported metals.

	Three months ended September 30,		Nine months ended September 30,	
	2018	2017	2018	2017
	(in thousands)		(in thousands)	
Revenue	\$ 16,798	\$ 14,909	\$ 48,056	\$ 41,480
Net income (loss)	\$ (477)	\$ (177)	\$ 356	\$ (825)
Adjusted EBITDA	\$ 363	\$ 647	\$ 2,319	\$ 1,554

ISA announces that the Company refinanced its working capital line of credit with a new \$10.0 million revolving line of credit and a \$2.5 million term loan. The interest rate on the Revolving Loan is equal to LIBOR plus 2.25% to 2.75% depending on financial performance. The interest rate on the Term Loan is equal to LIBOR plus 2.75% to 3.25% depending on financial performance.

Todd L. Phillips, Chief Executive Officer, President and Chief Financial Officer of ISA, commented, "We are very excited to work with Bank of America with our new credit facility."

Non-GAAP Measures

The information provided above in this release includes certain non-GAAP financial measures as defined under SEC rules. In accordance with SEC rules, the Company has provided, in the supplemental information below, a reconciliation of those measures to the most directly comparable GAAP measures. To provide additional information regarding the Company's results, the Company has disclosed in this press release Adjusted EBITDA. Adjusted EBITDA is not a measure of financial performance under accounting principles generally accepted in the United States of America. The Company defines Adjusted EBITDA as net income (loss) excluding depreciation and amortization, share-based compensation expense, interest expense, including loan fee amortization, gain on sale of assets, gain on insurance proceeds, other income (expense), net, and income tax provision. The Company has included Adjusted EBITDA as a supplemental financial measure in this press release as it is a key measure used by management and the board of directors to understand and evaluate the core operating performance of the Company, to prepare budgets and operating plans, and because management believes such measure provides useful information in understanding and evaluating the Company's operating results. Adjusted EBITDA is also used in certain covenants contained in the Company's credit agreement. However, use of Adjusted EBITDA as an analytic tool has its limitations and you should not consider this measure in isolation or as a substitute for analysis of the Company's financial results as reported under GAAP, including net income (loss), gross profit, cash flows from operating, investing or financing activities, or any other measure calculated in accordance with GAAP. The following table presents the reconciliation between net income (loss) and Adjusted EBITDA.

	Three Months Ended		Nine Months Ended	
	September 30,		September 30,	
	2018	2017	2018	2017
	<u>(in thousands)</u>		<u>(in thousands)</u>	
Reconciliation from net income (loss) to Adjusted EBITDA				
Net income (loss)	\$ (477)	\$ (177)	\$ 356	\$ (825)
Depreciation and amortization	529	534	1,571	1,669
Share-based compensation expense	41	31	64	90
Interest expense, including loan fee amortization	292	240	817	625
Gain on sale of assets	-	-	-	(28)
Gain on insurance proceeds	-	-	(487)	-
Other (income) expense, net	(15)	17	(15)	14
Income tax provision	(7)	2	13	9
Total net adjustments	<u>840</u>	<u>824</u>	<u>1,963</u>	<u>2,379</u>
Adjusted EBITDA	<u>\$ 363</u>	<u>\$ 647</u>	<u>\$ 2,319</u>	<u>\$ 1,554</u>

About ISA

Headquartered in Louisville, Kentucky, Industrial Services of America, Inc., is a publicly traded company that buys, processes and markets ferrous and non-ferrous metals and other recyclable commodities, and buys used autos in order to sell used auto parts. More information about ISA is available at www.isa-inc.com.

This news release contains forward-looking statements that involve risks and uncertainties that could cause actual results to differ from predicted results. Specific risks include fluctuations in commodity prices, varying demand for metal recycling, competitive pressures in metal recycling markets, the failure to operate the shredder successfully, competitive pressures in the used auto parts market, availability of liquidity and loss of customers. Further information on factors that could affect ISA's results is detailed in ISA's filings with the Securities and Exchange Commission. Except as required by law, ISA undertakes no obligation to publicly release the results of any revisions to the forward-looking statements.

ISA's SEC filings are available for review at the Securities and Exchange Commission web site at <http://www.sec.gov/edgar/searchedgar/companysearch.html>.