



**EXHIBIT A**

**Trademarks**

Trademark Title	Serial No./ Registration No.	File Date/ Date Registered
Seismic Browing Company Deep Tectonic	87036189	May 13, 2016
The Big One	87035390	May 12, 2016
Extinction Event	87035385	May 12, 2016
Not My Fault	87035379	May 12, 2016
Seismic	87099899	July 11, 2016

MEMORANDUM AND NOTICE OF SECURITY INTEREST  
IN INTELLECTUAL PROPERTY

July 20, 2016

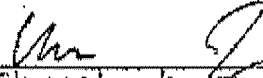
WSJ, LLC, a Delaware limited liability company ("Debtor"), whose address is 2932 Dutton Ave., Santa Rosa, California 95407, hereby acknowledges that, pursuant to the Agreement (defined below), they have granted to BANK OF THE WEST, a California banking corporation ("Secured Party"), whose address is 6873 N. West Avenue, Suite 102, Fresno, California 93711, a security interest in and to all of the Debtor's right, title and interest in and to: the trademarks and trademark registrations and applications therefor which are identified on Exhibit A attached hereto and herein incorporated by this reference owned by the Debtor (the "Trademarks"), together with the goodwill and assets of the business, to which such Trademarks, are appurtenant and all actions for infringement concerning the foregoing.

The terms and conditions of the aforementioned security interest are contained in that certain Loan and Security Agreement dated as of July 20, 2016 (the "Agreement"), entered into between Debtor and Secured Party, as security for the obligations as set forth in the Agreement and other agreements referred to therein. Nothing contained in this Memorandum and Notice of Security Interest in Intellectual Property shall be construed as a present or absolute assignment of any of the collateral nor as limiting any interest which Secured Party may have in any other collateral described in the Agreement or otherwise.

\* \* \* \* \*

IN WITNESS WHEREOF, the undersigned has duly executed this document as of the date first written above.

WSJ, LLC,  
a Delaware limited liability company

By:   
Name: Christopher Jackson  
Title: member

Memorandum and Notice of Security Interest  
in Intellectual Property

21263273v3

TRADEMARK  
REEL: 005874 FRAME: 0434

## LOAN AND SECURITY AGREEMENT

This LOAN AND SECURITY AGREEMENT (this "Agreement") is entered into as of July 26, 2016, between WSJ, LLC, a Delaware limited liability company, with its chief executive office located at 2932 Dutton Ave., Santa Rosa, California 95407 (the "Borrower") and Bank of the West, a California banking corporation, with an address of 6873 N. West Ave., Suite 102, Fresno, California 93711 (the "Lender").

FOR VALUE RECEIVED, and in consideration of the granting by the Lender of financial accommodations to or for the benefit of Borrower, including without limitation respecting the Obligations (as hereinafter defined), Borrower represents to and agrees with the Lender, as of the date hereof and as of the date of each loan, credit and/or other financial accommodation pursuant to this Agreement, as follows:

### 1. THE LOAN

1.1 Loan(s). Lender agrees, from time to time, in its sole discretion, to make one or more revolving loans, non-revolving loans or term loans (collectively, the "Loans") to or for the account of Borrower, upon Borrower's request therefor, in such amounts as shall be mutually agreed upon, subject to the terms and conditions set forth herein; provided there is no continuing uncured Event of Default (as hereinafter defined). Loans shall be evidenced by one or more notes issued by Borrower in favor of the Lender (collectively, and each a "Note"). This Agreement, each Note and any and all other documents, substitutions, modifications, extensions, amendments or renewals executed and delivered in connection with any of the foregoing are collectively hereinafter referred to as the "Loan Documents".

1.2 Loan Account(s). One or more accounts shall be opened on the books of Lender in which a record will be kept of all Loans, and all payments thereon and other appropriate debits and credits as provided by the Loan Documents.

1.3 Interest. Interest respecting the Loan(s) will be charged to Borrower on the principal amount from time to time outstanding at the interest rate specified in the Note(s) in accordance with the terms of the Note(s).

1.4 Repayment. All loans and advances made respecting any Loan shall be payable to Lender on or before the Expiration Date of the respective Note in accordance with the terms of the Note(s).

1.5 Authorized Persons; Advances. Any person duly authorized in writing by Borrower, or in the absence of such a writing, the managing member of Borrower, or any person otherwise authorized in this paragraph, may request discretionary Loans hereunder, either orally or otherwise, but the Lender at its option may require that all requests for Loans hereunder shall be in writing. The Lender shall incur no liability to Borrower in acting upon any request referred to herein which the Lender believes in good faith to have been made by an authorized person or persons. Each Loan hereunder may be credited by Lender to a deposit account identified by the Borrower.

1.6 Periodic Statement. At the request of Borrower, Lender will render to Borrower a statement of the Loan accounts, showing all applicable credits and debits. Each statement shall be considered correct and to have been accepted by Borrower and shall be conclusively binding upon Borrower in respect of all charges, debits and credits of whatsoever nature contained therein respecting the Loans, and the closing balance shown therein, unless Borrower notifies Lender in writing of any discrepancy within 30 days from the mailing by Lender to Borrower of any such statement.

## 2. GRANT OF SECURITY INTEREST

2.1 Grant of Security Interest. In consideration of the Lender's extending credit and other financial accommodations to or for the benefit of Borrower pursuant to the Loan Documents, Borrower hereby grants to the Lender a security interest in, and a lien on the Collateral (as hereinafter defined). The security interest granted by this Agreement is given to and shall be held by the Lender as security for the payment and performance of all Obligations, including, without limitation, all amounts outstanding pursuant to the Loan Documents.

2.2 Definitions. The following definitions shall apply to this Agreement:

- (a) "Code" shall mean the Uniform Commercial Code of California as amended from time to time.
- (b) "Collateral" shall mean all of Borrower's present and future right, title and interest in and to any and all of the personal property of Borrower whether such property is now existing or hereafter created, acquired or arising and wherever located from time to time, including without limitation:
  - (i) accounts;
  - (ii) chattel paper;
  - (iii) goods;
  - (iv) inventory;
  - (v) equipment;
  - (vi) instruments;
  - (vii) investment property;
  - (viii) documents;
  - (ix) commercial tort claims;
  - (x) deposit accounts;
  - (xi) letter-of-credit rights;

- (xi) general intangibles, including Trademarks;
- (xiii) supporting obligations; and
- (xiv) records of, accession to and proceeds and products of the foregoing;

provided that the security interests granted under this Agreement shall not extend to, and the Collateral shall not include, Excluded Collateral.

- (c) "Debtors" shall mean any licensee of Collateral and any other Person who is indebted to the Borrower in respect of the Collateral.
- (d) "Excluded Collateral" shall mean (i) any intent-to use trademark applications prior to the filing of a "Statement of Use", "Amendment to Allege Use" or similar filing with regard thereto, to the extent and solely during the period, in which the grant of a security interest therein may impair the validity or enforceability of any trademark that may issue from such intent to use trademark application under applicable law, (ii) assets if the granting or perfecting of a security interest in such assets in favor of the Lender would violate any applicable law, (iii) any right, title or interest in any instrument, permit, lease, general intangible, license, contract or agreement to the extent, but only to the extent that a grant of a security interest therein to secure the Obligations would, under the terms of such instrument, permit, lease, general intangible, license, contract or agreement, result in a breach of the terms of, or constitute a default under, or result in the abandonment, termination, invalidation or unenforceability of, or require the consent of any Person, which has not been obtained under such instrument, permit, lease, general intangible, license, contract or agreement (other than to the extent that any such term would be rendered ineffective pursuant to Section 9-406, 9-407, 9-408 or 9-409 of the Uniform Commercial Code of any applicable jurisdiction or any other applicable law (including, without limitation, Title 11 of the United States Code) or principles of equity), and (iv) any deposit or securities account (a) used exclusively for payroll, and/or payroll, local, state, federal and other taxes and/or other employee wage and benefit payments to or for the benefit of Borrower's employees, (b) used exclusively to pay all taxes required to be collected, remitted or withheld, and (c) which Borrower holds exclusively as an escrow or fiduciary for the benefit of another Person.
- (e) "Obligation(s)" shall mean, without limitation, all amounts owing by Borrower to Lender pursuant to this Agreement and any other Loan Document, now existing or hereafter arising or contracted. Said term shall also include all interest and other charges chargeable to Borrower or due from Borrower to the Lender from time to time and all costs and expenses referred to in this Agreement.
- (f) "Person" or "party" shall mean individuals, partnerships, corporations, limited liability companies and all other entities.
- (g) "Trademarks" shall mean (i) the trademarks described on Schedule 2.2(g); (ii) all rights to license and use such trademarks and all rights, claims and interest under

licensing and other contracts pertaining thereto; (iii) all rights (but not the obligation) to register with respect to the trademark claims under any state, federal or foreign trademark law or regulation; (iv) all rights, claims and interest under licensing and other contracts pertaining to the trademarks; (v) all goodwill and general intangibles associated with the trademarks; (vi) all rights (but not the obligation) to maintain claims for past, present and future infringements of the trademarks and the right to enforce same.

All words and terms used in this Agreement other than those specifically defined herein shall have the meanings accorded to them in the Code.

2.3 Ordinary Course of Business. The Lender hereby authorizes and permits Borrower to receive from the Debtors all amounts due as proceeds of the Collateral at Borrower's own cost and expense, and also liability, if any. Upon the occurrence of an Event of Default and so long as it is continuing, the Lender may at any time, without notice, terminate all or any part of the authority and permission herein or elsewhere in this Agreement granted to Borrower with reference to the Collateral, and notify Debtors to make all payments due as proceeds of the Collateral to the Lender. Until Lender shall otherwise notify Borrower, all proceeds of and collections of Collateral shall be retained by Borrower and used solely for the ordinary and usual operation of Borrower's business. From and after notice by Lender to Borrower (such notice to be given only upon the occurrence of an Event of default and so long as it is continuing), all proceeds of and collections of the Collateral shall be held in trust by Borrower for Lender and shall not be commingled with Borrower's other funds or deposited in any Lender account of Borrower; and Borrower agrees to deliver to Lender on the dates of receipt thereof by Borrower, duly endorsed to Lender or to bearer, or assigned to Lender, as may be appropriate, all proceeds of the Collateral in the identical form received by Borrower.

2.4 Records. Borrower shall hold its books and records relating to the Collateral segregated from all Borrower's other books and records in a manner satisfactory to the Lender; and shall deliver to the Lender from time to time promptly at its request all invoices, original documents of title, contracts, chattel paper, instruments and any other writings relating thereto, and other evidence of performance of contracts, or evidence of shipment or delivery of the merchandise or of the rendering of services; and Borrower will deliver to the Lender promptly at the Lender's request from time to time additional copies of any or all of such papers or writings, and such other information with respect to any of the Collateral and such schedules of inventory, schedules of accounts and such other writings as the Lender may in its sole discretion deem to be necessary or effectual to evidence any loan hereunder or the Lender's security interest in the Collateral.

2.5 Allowances. Absent an Event of Default that has occurred and is continuing, Borrower may grant such allowances or other adjustments to Debtors (exclusive of extending the time for payment of any item in an amount greater than \$25,000 which shall not be done without first obtaining the Lender's written consent in each instance) as Borrower may reasonably deem to accord with sound business practice, including, without limiting the generality of the foregoing, accepting the return of all or any part of the inventory.



2.6 Search Reports. Lender shall receive prior to the date of this Agreement UCC search results under all names used by the Borrower during the prior 5 years, from each jurisdiction where any Collateral is located, from the State of Delaware, and the State where the Borrower's chief executive office is located. The search results shall confirm that the security interest in the Collateral granted Lender hereunder is prior to all other security interests in favor of any other Person, other than Permitted Liens. In addition, at Lender's request made from time to time before or after the date of this Agreement, Lender shall receive such searches of the records of the United States Patent and Trademark Office and of any other analogous records in any other jurisdiction confirming the priority of the security interest and lien of Lender on the Collateral reflected in such records.

2.7 Legends. Borrower shall promptly make, stamp or record such entries or legends on any of the Collateral (including, without limitation, chattel paper) in an amount greater than \$25,000 as Lender shall reasonably request, to indicate and disclose that Lender has a security interest in such Collateral.

### 3. REPRESENTATIONS AND WARRANTIES

3.1 Organization and Qualification. Borrower is a duly organized and validly existing limited liability company under the laws of the State of Delaware, with the exact legal name set forth in the first paragraph of this Agreement. Borrower (a) is in good standing under the laws of Delaware, (b) has the power to own its property and conduct its business as now conducted and as currently proposed to be conducted, (c) is duly qualified to do business under the laws California and of any other state where the nature of the business done or property owned requires such qualification and where the failure to be qualified would reasonably be expected to have a material adverse effect on Borrower, and, (d) where necessary to maintain Borrower's rights and privileges, has complied with the fictitious name statute of every jurisdiction in which Borrower is doing business.

3.2 Reliance. Each warranty, representation, covenant, obligation and agreement contained in this Agreement shall be conclusively presumed to have been relied upon by the Lender regardless of any investigation made or information possessed by the Lender and shall be cumulative and in addition to any other warranties, representations, covenants and agreements which Borrower now or hereafter shall give, or cause to be given, to the Lender.

3.3 Related Parties. Borrower has no interest in any entities other than as previously specifically consented to in writing by the Lender or as permitted under this Agreement, if any, and Borrower has never consolidated, merged or acquired substantially all of the assets of any other Person other than as previously specifically consented to in writing by the Lender, if any.

3.4 Limited Liability Company Records. Borrower's certificate of organization, articles of organization or other charter document and all amendments thereto have been duly filed and are in proper order. All members of Borrower are properly reflected on all books and records of Borrower, including but not limited to its operating agreement, minute books, bylaws and books of account, all of which are accurate and up to date and will be so maintained.

3.5 Title to Properties; Absence of Liens. Borrower has good and marketable title to all of its properties and assets, and all of its properties and assets including the Collateral are free and clear of all mortgages, liens, pledges, charges, encumbrances and setoffs, other than the security interest therein granted to the Lender, Permitted Liens and those mortgages, deeds of trust, leases of personal property and security interests previously specifically consented to in writing by the Lender.

3.6 Places of Business. Borrower's chief executive office is correctly stated in the preamble to this Agreement, and Borrower shall, during the term of this Agreement, keep the Lender currently and accurately informed in writing of each of its other places of business where Borrower maintains its books and records or that hold Collateral in excess of \$250,000, and shall not change the location of such chief executive office or open or close, move or change any such existing or new place of business without giving the Lender at least 30 days prior written notice thereof.

3.7 Valid Obligations. The execution, delivery and performance of the Loan Documents have been duly authorized by all necessary action and each represents a legal, valid and binding obligation of Borrower and is fully enforceable according to its terms, except as limited by equity or laws relating to the enforcement of creditors' rights.

3.8 Fictitious Trade Styles. Except as otherwise listed on Schedule 3.8, there are no fictitious trade styles, fictitious trade names, assumed business names or trade names (defined herein as "Trade Name") used by Borrower in connection with its business operations. Borrower shall notify the Lender not less than 10 days prior to effecting any change in the matters described herein or prior to using any other Trade Name at any future date, indicating the Trade Name and State(s) of its use.

3.9 Conflicts. There is no provision in Borrower's organizational or charter documents, if any, or in any material indenture, contract or agreement to which Borrower is a party which prohibits, limits or restricts the execution, delivery or performance of the Loan Documents.

3.10 Governmental Approvals. The execution, delivery and performance of the Loan Documents does not require any approval of or filing with any governmental agency or authority.

3.11 Litigation, etc. Except as otherwise disclosed to Lender in writing, there are no actions, claims or proceedings pending or to the knowledge of Borrower threatened against Borrower which might materially adversely affect the ability of Borrower to conduct its business or to pay or perform the Obligations.

3.12 Accounts and Contract Rights. All accounts arise out of legally enforceable and existing contracts, and represent bona fide indebtedness by a Debtor, and are not and will not be subject to any discount (other than such discounts that are given in the ordinary course of business or are generally accepted practices in the industry of Borrower). No contract right, account, general intangible or chattel paper is or will be represented by any note or other instrument other than checks in the ordinary course of business, and, unless the Lender agrees otherwise, no contract right, account or general intangible is, or will be represented by any conditional or installment

sales obligation other than such obligations which are in the ordinary course of business or a generally accepted practice in the business of Borrower or other chattel paper, except such chattel paper as have been or immediately upon receipt by Borrower will be delivered to the Lender (duly endorsed or assigned), such delivery to include all executed copies except those in the possession of the installment buyer.

3.13 Notice of Debtor Insolvency. Upon any suspension of business, assignment or trust mortgage for the benefit of creditors, dissolution, petition in receivership or under any chapter of the Bankruptcy Code as amended from time to time by or against any Debtor owing an aggregate principal amount of \$100,000 or more to Borrower, any such Debtor becoming insolvent or unable to pay its debts as they mature or any other act of the same or different nature amounting to a business failure, Borrower will immediately notify the Lender thereof.

3.15 Third Parties. The Lender shall not be deemed to have assumed any liability or responsibility to Borrower or any third Person for the correctness, validity or genuineness of any item of Collateral that may be released or endorsed to Borrower by the Lender (which shall automatically be deemed to be without recourse to the Lender in any event) and the Lender, by accepting such security interest in the Collateral, or by releasing any Collateral to Borrower, shall not be deemed to have assumed any obligation or liability to any Debtor or to any other third party, and Borrower agrees to indemnify and defend the Lender and hold it harmless in respect to any claim or proceeding arising out of any matter referred to in this paragraph in accordance with the terms of this Agreement.

3.16 Taxes. Borrower has filed all Federal, state and other tax returns required to be filed (except for such returns for which current and valid extensions have been filed), and all taxes, assessments and other governmental charges due from Borrower have been fully paid prior to delinquency, other than taxes, assessments or other governmental charges that are being contested in good faith and with respect to which reserves have been established and are being maintained. Borrower has paid or established on its books reserves adequate for the payment of all Federal, state and other tax liabilities (if any).

3.17 Use of Proceeds. No portion of any loan is to be used for (i) the purpose of purchasing or carrying any "margin security" or "margin stock" as such terms are used in Regulations U and X of the Board of Governors of the Federal Reserve System, 12 C.F.R. 221 and 224 or (ii) primarily personal, family or household purposes. The Collateral is not used or acquired primarily for personal, family or household purposes.

3.18 Environmental. As of the date hereof neither Borrower nor to its knowledge, any of Borrower's agents, employees or independent contractors (1) have caused or are aware of a release or threat of release of Hazardous Materials (as defined herein) on any of the premises or personal property owned or controlled by Borrower ("Controlled Property") or any property abutting Controlled Property ("Abutting Property"), which could give rise to liability under any Environmental Law (as defined herein) or any other Federal, state or local law, rule or regulation; (2) have arranged for the transport of or transported any Hazardous Materials in a manner as to violate, or result in potential liabilities under, any Environmental Law; (3) have received any notice, order or demand from the Environmental Protection Agency or any other Federal, state or local agency under any Environmental Law; (4) have incurred any liability

under any Environmental Law in connection with the mismanagement, improper disposal or release of Hazardous Materials; or (5) are aware of any inspection or investigation of any Controlled Property or Abutting Property by any Federal, state or local agency for possible violations of any Environmental Law.

To Borrower's knowledge, neither Borrower, nor any prior owner or tenant of any Controlled Property, committed or omitted any act which caused the release of Hazardous Materials on such Controlled Property which could give rise to a lien thereon by any Federal, state or local government. No notice or statement of claim or lien affecting any Controlled Property has been recorded or filed in any public records by any Federal, state or local government for costs, penalties, fines or other charges as to such property. All notices, permits, licenses or similar authorizations, if any, required to be obtained or filed in connection with the ownership, operation, or use of the Controlled Property, including without limitation, the past or present generation, treatment, storage, disposal or release of any Hazardous Materials into the environment, have been duly obtained or filed.

Borrower agrees to indemnify and hold the Lender harmless from all liability, loss, cost, damage and reasonable and documented expense, including documented and reasonable attorney fees of a single counsel and costs of litigation, arising from any and all of its violations of any Environmental Law (including those arising from any lien by any Federal, state or local government arising from the presence of Hazardous Materials) or from the presence of Hazardous Materials located on or emanating from any Controlled Property or Abutting Property whether existing or not existing and whether known or unknown at the time of the execution hereof and regardless of whether or not caused by, or within the control of Borrower. Borrower further agrees to reimburse Lender within 7 business days after presentation of an invoice for any costs incurred by Lender in connection with the foregoing. Borrower agrees that its obligations hereunder shall be continuous and shall survive the repayment of all debts to Lender and shall continue so long as a valid claim may be lawfully asserted against the Lender.

The term "Hazardous Materials" includes but is not limited to any and all substances (whether solid, liquid or gas) defined, listed, or otherwise classified as pollutants, hazardous wastes, hazardous substances, hazardous materials, extremely hazardous wastes, or words of similar meaning or regulatory effect under any present or future Environmental Law or that may have a negative impact on human health or the environment, including but not limited to petroleum and petroleum products, asbestos and asbestos-containing materials, polychlorinated biphenyls, lead, radon, radioactive materials, flammables and explosives.

The term "Environmental Law" means any present and future Federal, state and local laws, statutes, ordinances, rules, regulations and the like, as well as common law, relating to protection of human health or the environment, relating to Hazardous Materials, relating to liability for or costs of remediation or prevention of releases of Hazardous Materials or relating to liability for or costs of other actual or threatened danger to human health or the environment. The term "Environmental Law" includes, but is not limited to, the following statutes, as amended, any successor thereto, and any regulations promulgated pursuant thereto, and any state or local statutes, ordinances, rules, regulations and the like addressing similar issues: the Comprehensive Environmental Response, Compensation and Liability Act; the Emergency Planning and Community Right-to-Know Act; the Hazardous Materials Transportation Act; the

Resource Conservation and Recovery Act (including but not limited to Subtitle I relating to underground storage tanks); the Solid Waste Disposal Act; the Clean Water Act; the Clean Air Act; the Toxic Substances Control Act; the Safe Drinking Water Act; the Occupational Safety and Health Act; the Federal Water Pollution Control Act; the Federal Insecticide, Fungicide and Rodenticide Act; the Endangered Species Act; the National Environmental Policy Act; and the River and Harbors Appropriation Act.

#### 4. COVENANTS

4.1 Payments and Performance. Borrower will duly and punctually pay all Obligations becoming due to the Lender and will duly and punctually perform all Obligations on its part to be done or performed under this Agreement.

4.2 Books and Records; Inspection. Borrower will at all times keep proper books of account in which full, true and correct entries will be made of its transactions in accordance with generally accepted accounting principles, consistently applied and which are, in the opinion of a Certified Public Accountant acceptable to Lender, adequate to determine fairly the financial condition and the results of operations of Borrower. Once per fiscal year, at Borrower's expense, Borrower will at reasonable times and upon prior notice, make its books and records available in its offices for inspection, examination and duplication by the Lender and the Lender's representatives and will permit inspection of the Collateral and all of its properties by the Lender and the Lender's representatives; provided, however, that upon the occurrence of an Event of Default and so long as it is continuing, Lender shall be entitled from time to time in its reasonable discretion to conduct, at Borrower's expense, additional inspections and examination of Borrower's books and records, as well as its Collateral and properties. Borrower will from time to time furnish the Lender with such information and statements as the Lender may reasonably request in its sole discretion with respect to the Obligations or the Lender's security interest in the Collateral. Borrower shall, during the term of this Agreement, keep the Lender currently and accurately informed in writing of each location where Borrower's records relating to its accounts and contract rights are kept, and shall not remove such records to another location without giving the Lender at least 30 days prior written notice thereof.

4.3 Financial Statements of Borrower. Borrower will deliver or cause to be delivered to Lender in form and detail satisfactory to Lender:

- (a) Not later than 120 days after the end of Borrower's fiscal year, a copy of the annual financial report of Borrower for such year.
- (b) Not later than 45 days after the end of each of the first three quarters of each fiscal year of Borrower, a copy of Borrower's financial statement as of the end of such period.
- (c) Not later than 45 days after filing but in any event no later than October 30<sup>th</sup> of each year, a copy of Borrower's federal income tax returns filed for such year, if any.
- (d) Not later than 45 days after the end of each quarter, an aging of accounts receivable and accounts payable.

- (e) Not later than 45 days after the end of each quarter, a schedule of inventory specifying the cost and quantity thereof and such other information as the Lender may reasonably request.

4.4 Financial Statements of Guarantor. Borrower will cause Jackson Family Investments, LLC, to deliver to Lender in form and detail satisfactory to Lender:

- (a) Not later than 120 days after the end of Jackson Family Investments, LLC's fiscal year, a copy of the annual financial report of Jackson Family Investments, LLC, for such year.

4.5 Additional Financial Information. Borrower will furnish to Lender:

- (a) from time to time, such financial data and information about Borrower as Lender may reasonably request; and
- (b) any financial data and information about the Guarantor as Lender may reasonably request.

4.6 Conduct of Business. Borrower will maintain its existence in good standing and comply in all material respects with all laws and regulations of the United States and of any state or states thereof and of any political subdivision thereof, and of any governmental authority which may be applicable to it or to its business; provided that this covenant shall not apply to any tax, assessment or charge which is being contested in good faith and with respect to which reserves have been established and are being maintained. Upon the written request of the Lender, Borrower shall submit to the Lender, at Borrower's sole cost and expense, at reasonable intervals, a report providing the status of any environmental, health or safety compliance, hazard or liability.

4.7 Notice to Debtors. After an Event of Default that has occurred and is continuing, Borrower agrees, at the request of the Lender, to notify all or any of the Debtors in writing of the Lender's security interest in the Collateral in whatever manner the Lender requests and, hereby authorizes the Lender to notify all or any of the Debtors of the Lender's security interest in Borrower's accounts at Borrower's expense.

4.8 Operating and Deposit Accounts. Commencing on or before January 1, 2017, Borrower shall maintain its primary business depository relationship with the Lender, including general, operating and administrative deposit accounts and cash management services; provided that such accounts and services shall be offered to Borrower at competitive rates.

4.9 Maintenance. Borrower will keep and maintain its property, including the Collateral, in good repair, working order and condition (other than ordinary wear and tear or as a result of a casualty or condemnation event). If an Event of Default shall have occurred and be continuing, the Lender may, at its option, from time to time, take any other action that the Lender may deem proper to repair, maintain or preserve any of the Collateral, and Borrower will pay to the Lender on demand or the Lender in its sole discretion may charge to Borrower all amounts so paid or incurred by it.

4.10 Insurance. Borrower will maintain in force property and casualty insurance on all Collateral and any other property of Borrower, if any, against risks customarily insured against by companies engaged in businesses similar to that of Borrower containing such terms and written by such companies as may be satisfactory to the Lender, such insurance to be payable to the Lender as its interest may appear in the event of loss and to name the Lender as insured pursuant to a standard loss payee clause; no loss in amount that exceeds \$250,000 shall be adjusted thereunder without the Lender's approval; and all such policies shall provide that they may not be canceled without first giving at least 30 days written notice of cancellation to the Lender. In the event that Borrower fails to provide evidence of such insurance, the Lender may, at its option, secure such insurance and charge the cost thereof to Borrower. At the option of the Lender in its reasonable discretion, all insurance proceeds received from any loss or damage to any of the Collateral shall be applied either to the replacement or repair thereof or as a payment on account of the Obligations. From and after the occurrence of an Event of Default, the Lender is authorized to cancel any insurance maintained hereunder and apply any returned or unearned premiums, all of which are hereby assigned to the Lender, as a payment on account of the Obligations.

4.11 Notification of Default. Promptly upon becoming aware of the existence of any condition or event which constitutes an Event of Default, or any condition or event which would upon notice or lapse of time, or both, constitute an Event of Default, Borrower shall give Lender written notice thereof specifying the nature and duration thereof and the action being or proposed to be taken with respect thereto.

4.12 Material Notices. Borrower shall give the Lender prompt written notice of any and all (i) losses or damages to or any occurrence which would adversely affect the value of any Collateral in an amount individually or in the aggregate in excess of \$250,000; (ii) litigation, arbitration or administrative proceedings to which Borrower is a party or which affects the Collateral and which such claim or liability exceeds, individually or in the aggregate with other pending claims or liabilities, \$250,000; (iii) other matters which have resulted in, or might result in a material adverse change in the Collateral or the financial condition or business operations of Borrower, and (iv) any enforcement, cleanup, removal or other governmental or regulatory actions instituted, completed or threatened against Borrower or any of its properties for which liability against Borrower would exceed \$250,000.

4.13 Pension Plans. With respect to any pension or benefit plan maintained by Borrower, or to which Borrower contributes ("Plan"), the benefits under which are guaranteed, in whole or in part, by the Pension Benefit Guaranty Corporation created by the Employee Retirement Income Security Act of 1974, P.L. 93-406, as amended ("ERISA") or any governmental authority succeeding to any or all of the functions of the Pension Benefit Guaranty Corporation ("Pension Benefit Guaranty Corporation"), Borrower will (a) fund each Plan as required by the provisions of Section 412 of the Internal Revenue Code of 1986, as amended; (b) cause each Plan to pay all benefits when due; (c) furnish Lender (i) promptly with a copy of any notice of each Plan's termination sent to the Pension Benefit Guaranty Corporation (ii) no later than the date of submission to the Department of Labor or to the Internal Revenue Service, as the case may be, a copy of any request for waiver from the funding standards or extension of the amortization periods required by Section 412 of the Internal Revenue Code of 1986, as amended and (iii) notice of any Reportable Event as such term is defined in ERISA; and (d) subscribe to any

contingent liability insurance provided by the Pension Benefit Guaranty Corporation to protect against employer liability upon termination of a guaranteed pension plan, if available to Borrower.

4.14 Definitions and/or Financial Covenants. The following Definitions will apply to this Agreement and Borrower and Guarantor, as applicable, will at the end of any fiscal period comply with all of the financial covenants in this section, if any.

(a) Definitions.

- (i) "Current Portion of Long-Term Debt" shall mean, for any period, the current scheduled principal payments of Total Funded Indebtedness under this Agreement or capital lease payments required to be paid during the applicable period.
- (ii) "Debt Service" means for the fiscal year ending on the date of determination, the sum of (i) the amount of principal paid or scheduled to be paid on Borrower's long term Liabilities during such fiscal year (including the Loans and the principal portion of any Subordinated Liabilities), calculated in accordance with GAAP, and (ii) the current interest paid or scheduled during such fiscal year on the aggregate amount of Borrower's Liabilities.
- (iii) "Debt Service Coverage Ratio" means, for the fiscal year ending on the date of determination, the ratio of (i) the sum of (x) EBITDA, minus distributions paid during such fiscal year, plus (y) the aggregate amount of cash equity contributions to the capital of Borrower made by Guarantor or any member of Borrower during such fiscal year, to (ii) Debt Service.
- (iv) "Earnings" shall mean earnings as defined under GAAP.
- (v) "EBITDA" shall mean, for any period, Earnings from continuing operations before payment of federal, state and local income taxes, plus Interest Expense, depreciation expense and amortization expense, in each case for such period, computed and calculated in accordance with GAAP.
- (vi) "Effective Tangible Net Worth - Borrower" means, for any date of determination, the result of (i) Borrower's total member's equity, including without limitation, the aggregate amount of cash equity contributions to the capital of Borrower made by Guarantor or any member of Borrower to effect compliance with the Effective Tangible Net Worth covenant, plus (ii) Subordinated Liabilities owing by Borrower, minus (iii) the book value of all of Borrower's property that would be treated as intangibles under GAAP.
- (vii) "Effective Tangible Net Worth - Guarantor" means, for any date of determination, the result of (i) Guarantor's total member's equity, plus (ii) Subordinated Liabilities owing by Guarantor, minus (iii) the book



value of all of Guarantor's property that would be treated as intangibles under GAAP.

- (viii) "GAAP" shall mean generally accepted accounting principles in effect from time to time in the United States.
- (ix) "Guarantor" shall mean Jackson Family Investments, LLC, a Delaware limited liability company.
- (x) "Interest Expense" shall mean, for any period, ordinary, regular, recurring and continuing expenses for interest on all borrowed money.
- (xi) "Liabilities" shall mean (a) all indebtedness for borrowed money or for the deferred purchase price of property or services (excluding trade credit entered into in the ordinary course of business and not past due for more than 90 days), and all obligations under leases which are or should be, under GAAP, recorded as capital leases, in respect of which a Person is directly or contingently liable as borrower, guarantor, endorser or otherwise, or in respect of which a Person otherwise assures a creditor against loss, (b) all obligations for borrowed money or for the deferred purchase price of property or services secured by (or for which the holder has an existing right, contingent or otherwise, to be secured by) any lien upon property (including without limitation accounts receivable and contract rights) owned by a Person, whether or not such Person has assumed or become liable for the payment thereof, and (c) all other liabilities and obligations which would be classified in accordance with GAAP as liabilities on a balance sheet or to which reference should be made in footnotes thereto.
- (xii) "Net Income" shall mean, for any period, all income actually paid in cash or accrued less all expenses and other charges for such period, determined in accordance with GAAP.
- (xiii) "Permitted Liens" shall mean: (1) liens and security interests securing Total Funded Indebtedness owed by Borrower to the Lender; (2) liens for taxes, assessments or similar charges not yet due or delinquent, or which are being contested in good faith and with respect to which reserves have been established and are being maintained; (3) liens of materialmen, mechanics, warehousemen, or carriers or other like liens arising in the ordinary course of business and securing obligations which are not yet delinquent, or which are being contested in good faith and with respect to which reserves have been established and are being maintained; (4) purchase money liens or purchase money security interests upon or in any property acquired or held by any Borrower in the ordinary course of business to secure Senior Funded Indebtedness outstanding on the date hereof or permitted to be incurred herein; (5) liens and security interests which, as of the date hereof, have been disclosed to and approved by the

Lender in writing; (6) liens resulting from deposits to secure payments of worker's compensation, unemployment insurance or other social security programs or to secure the performance of tenders, statutory obligations, leases, insurance contracts, surety and appeal bonds, bids and other contracts (other than for payment of indebtedness for borrowed money); (7) any attachment or judgment lien not constituting an Event of Default; (8) any interest or title of a licensee or sublicensee or lessee or sublessee under any license or sublicense or lease or sublease which does not interfere in any material respect with the business of the Borrower and which is not prohibited by this Agreement; (9) nonconsensual liens in favor of banking institutions arising as a matter of law and encumbering the deposits (including the right of setoff) held by such banking institutions in the ordinary course of business; (10) statutory liens in favor of customs and revenue authorities arising as a matter of law to secure payment of customs duties in connection with the importation of goods; (11) any zoning, building or similar laws or rights reserved to or vested in any governmental authority; (12) assignments of insurance or condemnation proceeds provided to landlords or their mortgagees pursuant to the terms of any lease and liens or rights reserved in any lease for rent or for compliance with the terms of such lease and (13) those liens and security interests which in the aggregate constitute an immaterial and insignificant monetary amount with respect to the net value of Borrower's assets.

(xiv) "Subordinated Liabilities" shall mean as of the date of determination thereof, all Liabilities which have been subordinated in writing to the obligations owing to the Lender on terms and conditions reasonably acceptable to the Lender.

(xv) "Senior Funded Indebtedness" shall mean, as of the date of determination thereof, all borrowed money as reflected in the most recent financial statements in the form required by this Agreement, if any, excluding all such borrowed money that has been subordinated to the satisfaction of Lender.

(xvi) "Total Funded Indebtedness" shall mean, as of the date of determination thereof, all borrowed money as reflected in the most recent financial statements in the form required by this Agreement, if any.

(b) Effective Tangible Net Worth.

(i) Borrower shall maintain a minimum Effective Tangible Net Worth - Borrower of at least \$1,000,000.00, measured at the end of each fiscal quarter.

- (ii) Guarantor shall maintain a minimum Effective Tangible Net Worth - Guarantor of at least \$20,000,000.00, measured at the end of each fiscal year.
- (c) Debt Service Coverage Ratio. Borrower shall maintain a Debt Service Coverage Ratio of not less than (a) 1.00 to 1.00 for the fiscal years ending December 31, 2016 and December 31, 2017, and (b) 1.25 to 1.00 for the fiscal year ending December 31, 2018 and each fiscal year thereafter, in each case measured at the end of each fiscal year.

4.15 Investments. Except as otherwise listed on Schedule 4.15, (a) Borrower shall not make investments in, or advances to, any individual, partnership, corporation, limited liability company, trust or other organization or Person and (b) Borrower will not purchase or otherwise invest in or hold securities, nonoperating real estate or other nonoperating assets or purchase all or substantially all the assets of any entity, in the case of each of clauses (a) and (b), in an amount in excess of \$250,000 over the term of this Agreement, other than as previously specifically consented to in writing by the Lender.

4.16 Mergers and Consolidation. Borrower shall not liquidate or dissolve, merge or consolidate with or into any other business organization.

4.17 Sale of Assets. Borrower shall not sell, lease or otherwise dispose of any of its assets, except for (i) the sale of inventory in the ordinary course of business; (ii) replacing machinery, equipment or other personal property which, as a consequence of wear, duplication or obsolescence, is no longer used or necessary in Borrower's business, provided that full, fair and reasonable consideration is received therefor; (iii) the sale of overdue accounts receivable arising in the ordinary course of business to any Person, but only in connection with the compromise or settlement thereof; (iv) like-kind exchanges or dispositions of real property or equipment in the ordinary course of business if the property received in such exchange has substantially the same fair market value as the property exchanged or the proceeds of such disposition are reasonably promptly applied to the purchase price of replacement property; (v) discounts or forgiveness of accounts receivable in the ordinary course of business or in connection with collection or compromise thereof and for which adequate reserves have been established; and (vi) the surrender or waiver of contractual rights or settlement, release or surrender of any contract or other litigations claims relating to ordinary course business operations and not interfering in any material respect with the ordinary conduct of business of Borrower.

4.18 Other Business. Borrower shall not engage in any business other than the business in which it is currently engaged or a business reasonably allied or related thereto.

4.19 Change of Name, etc. Borrower shall not change its legal name or the State or the type of its formation, without giving the Lender at least 30 days prior written notice thereof.

4.20 Compensation of Employees. Borrower shall compensate its employees for services rendered at an hourly rate at least equal to the minimum hourly rate prescribed by any applicable federal or state law or regulation.

4.21 Payment of Obligations and Taxes. Borrower shall make timely payment of all real and personal property taxes, assessments and charges and all franchise, income, unemployment, retirement benefits, withholding, sales and other taxes assessed against it or payable by it before delinquent and all of its liabilities and obligations including, but not limited to, trade payables, unless the same are being contested in good faith by appropriate proceedings with the appropriate court or regulatory agency. For purposes hereof, Borrower's issuance of a check, draft or similar instrument without delivery to the intended payee shall not constitute payment.

4.22 Inventory.

- (a) Except as provided herein below, Borrower's inventory shall, at all times, be in Borrower's physical possession, or other location(s) acceptable to Lender, and shall not be held by others on consignment, sale on approval, or sale or return in an amount greater than \$100,000 at any time.
- (b) All inventory shall be of good and merchantable quality, free from material defects.
- (c) Inventory in an amount greater than \$100,000 shall not at any time or times hereafter be stored with a bailee, warehouseman or similar party without the Lender's prior written consent and, in such event, Borrower will, at the Lender's reasonable request, use its commercially reasonable efforts cause any such bailee, warehouseman or similar party to issue and deliver to the Lender, in form acceptable to the Lender, warehouse receipts in the Lender's name evidencing the storage of inventory.

4.23 Location and Maintenance of Equipment.

- (a) Each of Borrower's equipment with a value of \$100,000 or greater (collectively, the "Equipment") shall at all times be in Borrower's physical possession or other location(s) acceptable to Lender (it being understood that such Equipment being in transit or at third party locations for repair are acceptable) and shall not be held for sale or lease other than as permitted by this Agreement.
- (b) Borrower shall not secrete, abandon or remove, or permit the removal of, the Equipment, or any part thereof, from Borrower's physical possession or other location(s) acceptable to Lender (it being understood that such Equipment being in transit or at third party locations for repair are acceptable) or remove or permit to be removed any accessories now or hereafter placed upon the Equipment (other than for replacement or repair).
- (c) Upon the Lender's demand, Borrower shall promptly provide the Lender with a complete and accurate description of the Equipment including, as applicable, the make, model, identification number and serial number of each item of Equipment. In addition, Borrower shall promptly notify the Lender of the acquisition of any new or additional Equipment or the replacement of any existing Equipment and shall supply the Lender with a complete description of any such additional or replacement Equipment.

- (d) Borrower shall, at Borrower's sole cost and expense, keep and maintain the Equipment in a good state of repair (other than ordinary wear and tear or as a result of a casualty event) and shall not destroy, misuse, abuse, illegally use or be negligent in the care of the Equipment or any part thereof. Borrower shall not remove, destroy, obliterate, change, cover, paint, deface or alter the name plates, serial numbers, labels or other distinguishing numbers or identification marks placed upon the Equipment or any part thereof by or on behalf of the manufacturer, any dealer or rebuilder thereof, or the Lender. Borrower shall allow the Lender and its representative, at reasonable times and upon prior notice, free access to and the right to inspect the Equipment pursuant to the terms of Section 4.2 and shall comply in all material respects with the terms and conditions of any leases covering the real property on which the Equipment is located and any orders, ordinances, laws, regulations or rules of any federal, state or municipal agency or authority having jurisdiction of such real property or the conduct of the business of the Persons having control or possession of the Equipment.
- (e) The Equipment is not now and shall not at any time hereafter be so affixed to the real property on which it is located as to become a fixture or a part thereof. The Equipment is now and shall at all times hereafter be and remain personal property of Borrower.

## 5. DEFAULT

5.1 Default. "Event of Default" shall mean the occurrence of one or more of any of the following events:

- (a) Borrower fails to pay in full and when due any installment of principal of the Obligations;
- (b) Borrower fails to pay in full and when due any payment of interest or any other payment Obligation (other than a principal payment subject to clause (a) above) within 5 days of when due (it being agreed by the parties hereto that with respect to interest payments, if Lender chooses to add such interest payment to the then-outstanding principal, no Event of Default has occurred under this clause (b));
- (c) Borrower shall fail in any material respect to perform or observe any (i) negative covenant contained in any Loan Document, or (ii) term, affirmative covenant or agreement contained in any Loan Document and any such failure shall continue unremedied for more than 30 days after (x) written notice from Lender to Borrower of the existence and character of Event of Default, or (y) an officer of Borrower becoming aware of such default;
- (d) default of any material liability, obligation or undertaking of Borrower to any other party resulting in a right by such third party to accelerate the maturity of any Liabilities;

- (e) If any statement, representation or warranty heretofore, now or hereafter made by Borrower or any guarantor of the Obligations in connection with this Agreement or in any supporting financial statement of Borrower or any guarantor of the Obligations shall be false or misleading in any material respect when made;
- (f) if Borrower or any guarantor of the Obligations is a corporation, trust, partnership or limited liability company, the liquidation, termination or dissolution of any such organization, or the merger or consolidation of such organization into another entity, or Borrower or any guarantor of the Obligations ceases to carry on actively its present business or suffers the appointment of a receiver for its property or makes an assignment for the benefit of creditors, in each case, without the prior written consent of Lender;
- (g) for a general partnership, limited partnership, or limited liability partnership, there shall occur a change in any general partner or a change affecting the control of Borrower; or for a limited liability company, there shall occur a change in any manager or member or a change affecting the control of Borrower, in each case, without the prior written consent of Lender;
- (h) Borrower or any guarantor shall: (i) become insolvent or be unable to pay its debts as they mature; (ii) make an assignment for the benefit of creditors or to an agent authorized to liquidate any substantial amount of its properties and assets; (iii) file a voluntary petition in bankruptcy or seeking reorganization or to effect a plan or other arrangement with creditors; (iv) file an answer admitting the material allegations of an involuntary petition relating to bankruptcy or reorganization or join in any such petition; (v) become or be adjudicated a bankrupt; (vi) apply for or consent to the appointment of, or consent that an order be made, appointing any receiver, custodian or trustee, for itself or any of its properties, assets or businesses; or (vii) in an involuntary proceeding, any receiver, custodian or trustee shall have been appointed for all or substantial part of Borrower's or Guarantor's properties, assets or businesses and shall not be discharged within 30 days after the date of such appointment;
- (i) a judgment or judgments for the payment of money in excess of \$250,000 (to the extent not paid or covered by insurance) shall be rendered against Borrower, and any such judgment shall remain unsatisfied and in effect for any period of 30 consecutive days without a stay of execution;
- (j) any levy, lien (including mechanics lien), seizure, attachment, execution or similar process shall be issued or levied on any of the property of Borrower in excess of \$100,000 and is not vacated, bonded, paid or discharged within 15 calendar days of the date of such issuance or levy;
- (k) any subordination agreement or any other Loan Document shall be revoked or limited or its enforceability or validity shall be contested by any signatory thereto (other than the Lender), by operation of law, legal proceeding or otherwise;

- (l) the termination or revocation of any guaranty of the Obligations without the prior written consent of the Lender; or
- (m) if there occurs a material adverse change in the Borrower's business or financial condition, or if there is a material impairment of the prospect of repayment of any portion of the Obligations.

5.2 Acceleration. If an Event of Default has occurred and is continuing, at the election of the Lender, all Obligations shall become immediately due and payable without notice or demand. In addition, regardless of whether the Lender has declared all Obligations to be immediately due and payable, Lender may exercise any action set forth below.

The Lender is hereby authorized, at its election, after an Event of Default has occurred and is continuing, without any further demand or notice except to such extent as notice may be required by applicable law, to take possession and/or sell or otherwise dispose of all or any of the Collateral at public or private sale; and the Lender may also exercise any and all other rights and remedies of a secured party under the Code or which are otherwise accorded to it in equity or at law, all as Lender may determine, and such exercise of rights in compliance with the requirements of law will not be considered adversely to affect the commercial reasonableness of any sale or other disposition of the Collateral. If notice of a sale or other action by the Lender is required by applicable law, unless the Collateral is perishable or threatens to decline speedily in value or is of a type customarily sold on a recognized market, Borrower agrees that 10 days written notice to Borrower, or the shortest period of written notice permitted by such law, whichever is smaller, shall be sufficient notice; and that to the extent permitted by law, the Lender, its officers, attorneys and agents may bid and become purchasers at any such sale, if public, and may purchase at any private sale any of the Collateral that is of a type customarily sold on a recognized market or which is the subject of widely distributed standard price quotations. Any sale (public or private) shall be without warranty and free from any right of redemption, which Borrower shall waive and release after default upon the Lender's request therefor, and may be free of any warranties as to the Collateral if Lender shall so decide. No purchaser at any sale (public or private) shall be responsible for the application of the purchase money. Any balance of the net proceeds of sale remaining after paying all Obligations of Borrower to the Lender shall be returned to such other party as may be legally entitled thereto; and if there is a deficiency, Borrower shall be responsible for repayment of the same, with interest. After an Event of Default has occurred and is continuing, upon demand by the Lender, Borrower shall assemble the Collateral and make it available to the Lender at a place designated by the Lender which is reasonably convenient to the Lender and Borrower. Borrower hereby acknowledges that the Lender has extended credit and other financial accommodations to Borrower upon reliance of Borrower's granting the Lender the rights and remedies contained in this Agreement including without limitation the right to take immediate possession of the Collateral upon the occurrence and continuance of an Event of Default and Borrower hereby acknowledges that the Lender is entitled to equitable and injunctive relief to enforce any of its rights and remedies hereunder or under the Code and Borrower hereby waives any defense to such equitable or injunctive relief based upon any allegation of the absence of irreparable harm to the Lender.

The Lender shall not be required to marshal any present or future security for (including

but not limited to this Agreement and the Collateral subject to the security interest created hereby), or guarantees of, the Obligations or any of them, or to resort to such security or guarantees in any particular order; and all of its rights hereunder and in respect of such securities and guaranties shall be cumulative and in addition to all other rights, however existing or arising. To the extent that it lawfully may do so, Borrower hereby agrees that it will not invoke and irrevocably waives the benefits of any law relating to the marshaling of collateral which might cause delay in or impede the enforcement of the Lender's rights under this Agreement or under any other instrument evidencing any of the Obligations or under which any of the Obligations is outstanding or by which any of the Obligations is secured or guaranteed. Except as required by applicable law, the Lender shall have no duty as to the collection or protection of the Collateral or any income thereon, nor as to the preservation of rights against prior parties, nor as to the preservation of any rights pertaining thereto beyond the safe custody thereof.

5.3 Cease Extending Credit. The Lender may cease making advances or otherwise extending credit to or for the account of Borrower under this Agreement or under any other agreement now existing or hereafter entered into between Borrower and the Lender.

5.4 Termination. The Lender may terminate this Agreement as to any future obligation of the Lender without affecting Borrower's obligations to the Lender or the Lender's rights and remedies under this Agreement or under any other document, instrument or agreement.

5.5 Application of Proceeds. All amounts received by the Lender as proceeds from the disposition or liquidation of the Collateral shall be applied to Borrower's indebtedness to the Lender as follows: first, to the costs and expenses of collection, enforcement, protection and preservation of the Lender's lien in the Collateral, including court costs and reasonable and documented fees of a single counsel, whether or not suit is commenced by the Lender; next, to those costs and expenses incurred by the Lender in protecting, preserving, enforcing, collecting, liquidating, selling or disposing of the Collateral; next, to the payment of accrued and unpaid interest on all of the Obligations; next, to the payment of the outstanding principal balance of the Obligations; and last, to the payment of any other Obligations owed by Borrower to the Lender. Any excess Collateral or excess proceeds existing after the disposition or liquidation of the Collateral will be returned or paid by the Lender to Borrower.

If any non-cash proceeds are received in connection with any sale of Collateral, the Lender shall not apply such non-cash proceeds to the Obligations unless and until such proceeds are converted to cash.

5.6 Power of Attorney. Borrower hereby irrevocably constitutes and appoints the Lender as Borrower's true and lawful attorney, with full power of substitution, at the sole cost and expense of Borrower but for the sole benefit of the Lender, upon the occurrence and continuance of an Event of Default, to convert the Collateral into cash, including, without limitation, completing the manufacture or processing of work in process, and the sale (either public or private) of all or any portion or portions of the inventory and other Collateral; to enforce collection of the Collateral, either in its own name or in the name of Borrower, including, without limitation, executing releases or waivers, compromising or settling with any Debtors and prosecuting, defending, compromising or releasing any action relating to the Collateral; to receive, open and dispose of all mail addressed to Borrower and to take therefrom any remittances or proceeds of



Collateral in which the Lender has a security interest; to notify Post Office authorities to change the address for delivery of mail addressed to Borrower to such address as the Lender shall designate; to endorse the name of Borrower in favor of the Lender upon any and all checks, drafts, money orders, notes, acceptances or other instruments of the same or different nature; to sign and endorse the name of Borrower on and to receive as secured party any of the Collateral, any invoices, freight or express receipts, or bills of lading, storage receipts, warehouse receipts, or other documents of title of the same or different nature relating to the Collateral; to sign the name of Borrower on any notice of the Debtors or on verification of the Collateral; and to sign, if necessary, and file or record on behalf of Borrower any financing or other statement in order to perfect or protect the Lender's security interest. The Lender shall not be obliged to do any of the acts or exercise any of the powers hereinabove authorized, but if the Lender elects to do any such act or exercise any such power, it shall not be accountable for more than it actually receives as a result of such exercise of power, and it shall not be responsible to Borrower except for its own gross negligence or willful misconduct. All powers conferred upon the Lender by this Agreement, being coupled with an interest, shall be irrevocable so long as any Obligation of Borrower to the Lender shall remain unpaid (other than contingent indemnification obligations) or the Lender is obligated under this Agreement to extend any credit to Borrower.

5.7 Nonexclusive Remedies. All of the Lender's rights and remedies not only under the provisions of this Agreement but also under any other agreement or transaction shall be cumulative and not alternative or exclusive, and may be exercised by the Lender at such time or times and in such order of preference as the Lender in its sole discretion may determine. No course of dealing and no delay or omission on the part of Lender in exercising any right hereunder shall operate as a waiver of such right or any other right and waiver on any one or more occasions shall not be construed as a bar to or waiver of any right or remedy of Lender on any future occasion.

## 6. MISCELLANEOUS

6.1 Waiver of Homestead. To the maximum extent permitted under applicable law, Borrower hereby waives and terminates any homestead rights and/or exemptions respecting any of its property under the provisions of any applicable homestead laws, including without limitation, California Code of Civil Procedure Sections 704-710 et seq.

6.2 Disposal of Documents. All documents, schedules, invoices or other papers received by the Lender from Borrower may be destroyed or disposed of 6 months after receipt by the Lender.

6.3 Telephone Recording. Borrower agrees that the Lender may electronically record all telephone conversations between Borrower and the Lender with respect to any transaction pursuant to the Loan Documents and that any such recording may be submitted in evidence in any arbitration or other legal proceeding. Such recording shall be deemed to be conclusive evidence as to the terms of any transaction in the event of a dispute.

6.4 Indemnification. Borrower shall indemnify, defend and hold the Lender and its directors, officers, employees, agents and attorneys (each an "Indemnitee") harmless of and from any claim brought or threatened against any Indemnitee by Borrower, Guarantor, or any other Person (as well as from the reasonable and documented fees and expenses of a single counsel in

connection therewith) on account of the Lender's relationship with Borrower or Guarantor pursuant to the Loan Documents (each of which may be defended, compromised, settled or pursued by the Lender with a single counsel of the Lender's election, but at the expense of Borrower), except for any claim arising out of the gross negligence, bad faith or willful misconduct of the Lender. The within indemnification shall survive payment of the Obligations, and/or any termination, release or discharge executed by the Lender in favor of Borrower.

6.5 Costs and Expenses. Borrower shall pay to the Lender within 10 days after receipt of an invoice any and all reasonable and documented costs and expenses (including, without limitation, the reasonable and documented fees of a single counsel and disbursements, court costs, litigation and other expenses) incurred or paid by the Lender in the preparing and negotiating the Loan Documents, establishing, maintaining, protecting or enforcing any of the Lender's rights or the Obligations, including, without limitation, any and all such costs and expenses incurred or paid by the Lender in defending the Lender's security interest in, title or right to the Collateral or in collecting or attempting to collect or enforcing or attempting to enforce payment of the Obligations.

6.6 Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be an original, but all of which shall constitute but one agreement.

6.7 Severability. If any provision of this Agreement or portion of such provision or the application thereof to any Person or circumstance shall to any extent be held invalid or unenforceable, the remainder of this Agreement (or the remainder of such provision) and the application thereof to other Persons or circumstances shall not be affected thereby.

6.8 Headings. The headings herein set forth are solely for the purpose of identification and have no legal significance.

6.9 Conflicting Provisions. To the extent the provisions contained in this Agreement are inconsistent with those contained in any other Loan Document, the terms and provisions contained herein shall control. Otherwise, such provisions shall be considered cumulative.

6.10 Complete Agreement. This Agreement and the other Loan Documents constitute the entire agreement and understanding between and among the parties hereto relating to the subject matter hereof, and supersedes all prior proposals, negotiations, agreements and understandings among the parties hereto with respect to such subject matter. This Agreement may be amended only by an instrument in writing signed by Borrower and Lender.

6.11 Accuracy of Financial Statements. All financial statements, written information and other data which may have been or which may hereafter be submitted by Borrower to the Lender are true, accurate and correct in all material respects and have been or will be prepared in accordance with generally accepted accounting principles consistently applied and accurately represent the financial condition or, as applicable, the other information disclosed therein. Since the most recent submission of such financial information or data to the Lender, Borrower represents and warrants that no material adverse change in Borrower's financial condition or operations has occurred which has not been fully disclosed to the Lender in writing.

6.12 Binding Effect of Agreement. This Agreement shall be binding upon and inure to the benefit of the respective heirs, executors, administrators, legal representatives, successors and assigns of the parties hereto, and shall remain in full force and effect (and the Lender shall be entitled to rely thereon) until the Obligations have been paid in full (other than contingent indemnification obligations) and the commitments of Lender under the Loan Documents have been terminated. The Lender may transfer and assign this Agreement and deliver the Collateral to the assignee, who shall thereupon have all of the rights of the Lender; and the Lender shall then be relieved and discharged of any responsibility or liability with respect to this Agreement and the Collateral. Borrower may not assign or transfer any of its rights or obligations under this Agreement without the prior written consent of the Lender. Except as expressly provided herein or in the other Loan Documents, nothing, expressed or implied, is intended to confer upon any party, other than the parties hereto, any rights, remedies, obligations or liabilities under or by reason of this Agreement or the other Loan Documents.

6.13 Further Assurances. Borrower will from time to time execute and deliver to Lender such documents, and take or cause to be taken, all such other or further action, as Lender may reasonably request in order to effect and confirm or vest more securely in Lender all rights contemplated by this Agreement and the other Loan Documents (including, without limitation, to correct clerical errors) or to vest more fully in or assure to the Lender the security interest in the Collateral granted to the Lender by this Agreement or to comply with applicable statute or law and to facilitate the collection of the Collateral (including, without limitation, the execution of stock transfer orders and stock powers, endorsement of promissory notes and instruments and notifications to obligors on the Collateral). To the extent permitted by applicable law, Borrower authorizes the Lender to file financing statements, continuation statements or amendments, and any such financing statements, continuation statements or amendments may be filed at any time in any jurisdiction. Borrower agrees to furnish any information required by such financing statements to Lender promptly upon request. In addition, Borrower shall at any time and from time to time take such steps as Lender may reasonably request for Lender (i) to obtain an acknowledgment, in form and substance reasonably satisfactory to Lender, of any bailee having possession of any of the Collateral in an amount in excess of \$100,000 that the bailee holds such Collateral for Lender, (ii) to obtain "control" (as defined in the Code) of any Collateral in excess of \$100,000 comprised of deposit accounts (it being understood that accounts maintained by Borrower with the Lender fulfill this requirement), electronic chattel paper, letter of credit rights or investment property, with any agreements establishing control to be in form and substance reasonably satisfactory to Lender, and (iii) otherwise to insure the continued perfection and priority of Lender's security interest in any of the Collateral and the preservation of its rights therein. Borrower hereby constitutes Lender its attorney-in-fact to execute, if necessary, and file all filings required or so requested for the foregoing purposes, all acts of such attorney in connection with the foregoing being hereby ratified and confirmed; and such power, being coupled with an interest, shall be irrevocable until this Agreement terminates in accordance with its terms, all Obligations are paid in full in cash (other than contingent indemnification obligations) and the Collateral is released.

6.14 Terms of Agreement. This Agreement shall continue in full force and effect so long as any Obligations (other than contingent indemnification obligations) shall be outstanding, or the Lender shall have any obligation to extend any financial accommodation hereunder.

6.15 Notices. Any notice under or pursuant to this Agreement shall be a signed writing or other authenticated record (within the meaning of Article 9 of the Code). Any notices or other documents sent under or pursuant to this Agreement shall be deemed duly received and effective if delivered in hand to any officer or agent of Borrower or Lender, or if mailed by registered or certified mail, return receipt requested, addressed to Borrower at 421 Aviation Blvd., Santa Rosa, CA 95403 or Lender at the address set forth in the Loan Agreement or as any party may from time to time designate by written notice to the other party.

6.16 Governing Law. This Agreement shall be governed by federal law applicable to the Lender and, to the extent not preempted by federal law, the laws of the State of California without giving effect to the conflicts of laws principles thereof.

6.17 Reproductions. This Agreement and all documents which have been or may be hereinafter furnished by Borrower to the Lender may be reproduced by the Lender by any photographic, photostatic, microfilm, xerographic or similar process, and any such reproduction shall be admissible in evidence as the original itself in any judicial or administrative proceeding (whether or not the original is in existence and whether or not such reproduction was made in the regular course of business).

6.18 Jurisdiction and Venue. Each party hereto irrevocably submits to the nonexclusive jurisdiction of any Federal or state court sitting in California, over any suit, action or proceeding arising out of or relating to this Agreement. Each party hereto irrevocably waives, to the fullest extent it may effectively do so under applicable law, any objection it may now or hereafter have to the laying of the venue of any such suit, action or proceeding brought in any such court and any claim that the same has been brought in an inconvenient forum. Each party thereto hereby consents to any and all process which may be served in any such suit, action or proceeding, (i) by mailing a copy thereof by registered and certified mail, postage prepaid, return receipt requested, to such other party's address as shown or given in Section 6.15 and (ii) by serving the same upon the other party in any other manner otherwise permitted by law, and agrees that such service shall in every respect be deemed effective service upon such party.

6.19 Civil Code Section 2822. In the event that at any time, a surety is liable upon only a portion of Borrower's obligations under the Loan Documents and Borrower provides partial satisfaction of any such obligation(s), Borrower hereby waives any right it would otherwise have, under Section 2822 of the California Civil Code, to designate the portion of the obligations to be satisfied. The designation of the portion of the obligation to be satisfied shall, to the extent not expressly made by the terms of the Loan Documents, be made by the Lender rather than Borrower.

6.20 Waiver Of Jury Trial. THE BORROWER AND LENDER ACKNOWLEDGE THAT THE RIGHT TO TRIAL BY JURY IS A CONSTITUTIONAL RIGHT, AND THAT IT MAY BE WAIVED UNDER CERTAIN CIRCUMSTANCES. TO THE EXTENT PERMITTED BY LAW EACH PARTY, AFTER CONSULTING (OR HAVING THE OPPORTUNITY TO CONSULT) WITH COUNSEL OF ITS CHOICE, WAIVES ANY RIGHT TO TRIAL BY JURY IN THE EVENT OF LITIGATION RELATED TO THIS AGREEMENT OR ANY OTHER DOCUMENT, INSTRUMENT OR TRANSACTION BETWEEN THE PARTIES.

6.21 Judicial Reference Provision. In the event the above Jury Trial Waiver is unenforceable, the parties elect to proceed under this Judicial Reference Provision. With the exception of the items specified below, any controversy, dispute or claim between the parties relating to this Agreement or any other document, instrument or transaction between the parties pursuant to the Loan Documents (each, a "Claim"), will be resolved by a reference proceeding in California pursuant to Sections 638 et seq. of the California Code of Civil Procedure, or their successor sections, which shall constitute the exclusive remedy for the resolution of any Claim, including whether the Claim is subject to reference. Venue for the reference will be the Superior Court in the County where real property involved in the action, if any, is located, or in a County where venue is otherwise appropriate under law (the Court). The following matters shall not be subject to reference: (i) nonjudicial foreclosure of any security interests in real or personal property, (ii) exercise of self-help remedies (including without limitation set-off), (iii) appointment of a receiver, and (iv) temporary, provisional or ancillary remedies (including without limitation writs of attachment, writs of possession, temporary restraining orders or preliminary injunctions). The exercise of, or opposition to, any of the above does not waive the right to a reference hereunder.

The referee shall be selected by agreement of the parties. If the parties do not agree, upon request of any party a referee shall be selected by the Presiding Judge of the Court. The referee shall determine all issues in accordance with existing case law and statutory law of the State of California, including without limitation the rules of evidence applicable to proceedings at law. The referee is empowered to enter equitable and legal relief, and rule on any motion which would be authorized in a court proceeding, including without limitation motions for summary judgment or summary adjudication. The referee shall issue a decision, and pursuant to CCP §644 the referee's decision shall be entered by the Court as a judgment or order in the same manner as if tried by the Court. The final judgment or order from any decision or order entered by the referee shall be fully appealable as provided by law. The parties reserve the right to findings of fact, conclusions of law, a written statement of decision, and the right to move for a new trial or a different judgment, which new trial if granted, will be a reference hereunder. AFTER CONSULTING (OR HAVING THE OPPORTUNITY TO CONSULT) WITH COUNSEL OF ITS CHOICE, EACH PARTY AGREES THAT ALL CLAIMS RESOLVED UNDER THIS REFERENCE PROVISION WILL BE DECIDED BY A REFEREE AND NOT A JURY.

Executed as of July 20, 2016.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the date first hereinabove written.

BANK:

BORROWER:

BANK OF THE WEST

WSJ, LLC

By: 

By: 

NAME: Adam Beak, Managing Director

NAME: Christopher Jackson, Member

Schedule 2.2(g)

Trademarks

<u>WORD/MARK</u>	<u>SERIAL NUMBER</u>	<u>FILING DATE</u>	<u>REGISTRATION DATE</u>	<u>REGISTRATION NUMBER</u>
SEISMIC BREWING COMPANY DEEP TECTONIC	87036189	May 13, 2016		
THE BIG ONE	87035390	May 12, 2016		
EXTINCTION EVENT	87035385	May 12, 2016		
NOT MY FAULT	87035379	May 12, 2016		
SEISMIC	87099899	July 11, 2016		

Schedule 3.8

Fictitious Trade Styles

BN 209685068

TRADEMARK  
REEL: 005874 FRAME: 0461

Schedule 4.15

Investments

BN 20968506v8