

TRADEMARK ASSIGNMENT COVER SHEET

Electronic Version v1.1
Stylesheet Version v1.2

ETAS ID: TM503700

SUBMISSION TYPE:	NEW ASSIGNMENT		
NATURE OF CONVEYANCE:	SECURITY INTEREST		
CONVEYING PARTY DATA			
Name	Formerly	Execution Date	Entity Type
Streamline Design & Silkscreen, Inc.		05/23/2018	Corporation: CALIFORNIA
RECEIVING PARTY DATA			
Name:	Bibby Financial Services, Inc., successor in interest to Bibby Financial Services (CA), Inc.		
Street Address:	600 TownPark Lane, Suite 450		
Internal Address:	Attn: Jeff Guldner; Melissa Smith; Kimberly Withrow		
City:	Kennesaw		
State/Country:	GEORGIA		
Postal Code:	30144		
Entity Type:	Corporation: FLORIDA		
PROPERTY NUMBERS Total: 1			
Property Type	Number	Word Mark	
Registration Number:	5047581	IRON AND RESIN	
CORRESPONDENCE DATA			
Fax Number:	8183823433		
<i>Correspondence will be sent to the e-mail address first; if that is unsuccessful, it will be sent using a fax number, if provided; if that is unsuccessful, it will be sent via US Mail.</i>			
Phone:	818-382-3434		
Email:	leropkin@laklawyers.com		
Correspondent Name:	Levinson Arshonsky & Kurtz, LLP		
Address Line 1:	15303 Ventura Boulevard, Suite 1650		
Address Line 2:	Attn: Steven Kurtz; Lori Eropkin		
Address Line 4:	Sherman Oaks, CALIFORNIA 91403		
NAME OF SUBMITTER:	Lori Eropkin		
SIGNATURE:	/Lori Eropkin/		
DATE SIGNED:	12/28/2018		
Total Attachments: 20			
source=Amended and Restated MPSA (redacted)#page1.tif			
source=Amended and Restated MPSA (redacted)#page2.tif			

OP \$40.00 5047581

source=Amended and Restated MPSA (redacted)#page3.tif
source=Amended and Restated MPSA (redacted)#page4.tif
source=Amended and Restated MPSA (redacted)#page5.tif
source=Amended and Restated MPSA (redacted)#page6.tif
source=Amended and Restated MPSA (redacted)#page7.tif
source=Amended and Restated MPSA (redacted)#page8.tif
source=Amended and Restated MPSA (redacted)#page9.tif
source=Amended and Restated MPSA (redacted)#page10.tif
source=Amended and Restated MPSA (redacted)#page11.tif
source=Amended and Restated MPSA (redacted)#page12.tif
source=Amended and Restated MPSA (redacted)#page13.tif
source=Amended and Restated MPSA (redacted)#page14.tif
source=Amended and Restated MPSA (redacted)#page15.tif
source=Amended and Restated MPSA (redacted)#page16.tif
source=Amended and Restated MPSA (redacted)#page17.tif
source=Amended and Restated MPSA (redacted)#page18.tif
source=Amended and Restated MPSA (redacted)#page19.tif
source=Amended and Restated MPSA (redacted)#page20.tif



AMENDED AND RESTATED MASTER PURCHASE AND SALE AGREEMENT

BETWEEN

**BIBBY FINANCIAL SERVICES, INC.,
successor in interest to
BIBBY FINANCIAL SERVICES (CA), INC.**

AND

**STREAMLINE DESIGN & SILKSCREEN, INC.; ORION17, LLC; THE GARAGE INC.;
INRSF, INC.; AND INR VENICE, LLC**

THIS Amended and Restated Master Purchase and Sale Agreement, is made this 23rd day of May, 2018 by and between Bibby Financial Services, Inc., successor in interest to Bibby Financial Services (CA) Inc. ("BFS") and Streamline Design & Silkscreen, Inc. ("Streamline"); Orion17, LLC ("Orion17"); The Garage Inc. ("Garage"); INRSF, Inc. ("INRSF"); and INR Venice, LLC ("INRV")(Streamline, Orion17, Garage, INRSF and INRV are referred to individually herein as "Seller" and collectively as "Sellers").

Seller and BFS are parties to a Master Purchase and Sale Agreement dated as of March 30, 2017 (as amended to date, the "Original Agreement"). The parties have agreed that the Original Agreement shall be amended and restated so as to read, in its entirety, as herein set forth.

A. Parties.

1. BFS is a registered organization duly organized with the State of Florida and who has its place of business located at 515 Marin Street, Suite 420, Thousand Oaks, California 91360.

2. Each Seller is a registered organization duly organized with the State of California. Streamline Design & Silkscreen, Inc., a California corporation has a place of business located at 1299 S. Wells Rd. Ventura, CA 93004; Orion17, LLC, a California limited liability company has a place of business located at 1328 Ventura Ave. Suite C, Ventura, CA 93001; The Garage Inc., a California corporation has a place of business located at 324 E. Main St., Ventura, CA 93004; INRSF, Inc., a California corporation has a place of business located at 7 Columbus Ave., San Francisco, CA 94111; and INR Venice, LLC, a California limited liability company has a place of business located at 1328 Ventura Ave. Suite C, Ventura, CA 93001. Both BFS and each Seller may hereinafter collectively be referred to as the "Parties."

B. Terms of Amended and Restated Master Purchase and Sale Agreement and Construction.

Seller acknowledges it has heretofore received and reviewed the Edition FT61 Standard Provisions, which is affixed hereto and shall be construed and interpreted as a single integrated and complete agreement between the Parties under which, among other things, the Seller will offer for sale its Accounts to BFS. Hereafter, this Amended and Restated Master Purchase and Sale Agreement with the Standard Provisions integrated herein shall be collectively referred to as the "Amended and Restated MPSA". All capitalized terms used herein shall have the meaning ascribed to such term as set forth below or in the Standard Provisions.

C. Definitions.

1. In addition to those terms defined in Annex A of the Standard Provisions the following terms shall have the meaning ascribed to such term as set forth below:

1.1 "Purchase Fees" shall include the following:

(i) "Collateral Management Fee" which shall mean an administrative fee in the amount of [REDACTED] charged monthly in arrears;

(ii) "Funding Fee" which shall mean a fee of [REDACTED] above the Libor Rate for each Account Purchased for which Seller has received an Advance, which Libor Rate shall be calculated on Net Funds Employed and shall in no event be less than [REDACTED] p);

1.2 "Advance Rate" shall mean an amount up to [REDACTED] of the Aggregate Net Face Value of Accounts identified in each Assignment Schedule delivered to BFS and shall be adjusted by the Dilution Reserve.

1.3 "Maximum Debtor Concentration" shall mean the total funded Accounts Purchased that are due from a single Account Debtor at any given time may not exceed [REDACTED] of Seller's total outstanding funded Accounts Purchased.

- 1.4 "Minimum Sales" shall mean that Seller must offer BFS for sale at least WAIVED per month in Accounts.
- 1.5 "Total Maximum Facility" shall mean Two Million Dollars (\$2,000,000), which represents the maximum Net Funds Employed which that may be advanced at any given time.

D. Additional Terms and Conditions. The following shall be additional terms and conditions to this Amended and Restated MPSA. Notwithstanding any other provision set forth in the Amended and Restated MPSA, each of BFS and Seller agree that the following subsections of this Paragraph D shall control in the event of a conflict with any other provision of the Amended and Restated MPSA. Except as specifically set for the above, the Standard Provisions as incorporated into the Amended and Restated MPSA and all obligations thereunder shall remain in full force and effect. A default of any of the additional terms and conditions of Section D shall be considered an Event of Default hereunder.

1. FINANCIAL REPORTING REQUIREMENTS.

(a) Seller shall submit an inventory borrowing base certificate (with an inventory report acceptable in form to BFS) in form and substance satisfactory to BFS on a weekly basis.

(b) Seller shall submit the following to BFS on a calendar monthly basis, which documentation shall be submitted by the twentieth (20th) working day of the month for the previous calendar month: (i) accounts payable aging; (ii) accounts receivable aging; (iii) income statement; and (iv) balance sheet, all of which Seller shall submit in form and substance satisfactory to BFS. Such Information shall be presented on a consolidated and consolidating basis.

(c) Seller shall submit the following year end financial statements to BFS as soon as such financial statements are finalized and in any event not later than seventy-five (75) days after the end of each calendar year: (i) income statement; (ii) balance sheet; and (iii) cash flow projection for the year. Such Information shall be presented on a consolidated and consolidating basis.

(d) In addition to the other audit rights set forth in this Amended and Restated MPSA, BFS shall have the right to perform three (3) annual audits of Seller or at least annually at BFS' discretion, which audits shall be at the sole expense of Seller and may be performed by BFS or an auditor selected by BFS. Audit Expenses will be billed to Seller.

(e) In addition to the other inventory appraisal rights set forth in this Amended and Restated MPSA, BFS shall have the right to perform an annual inventory appraisal, which inventory appraisal shall be at the sole expense of Seller and may be performed by BFS or an appraiser selected by BFS. Inventory appraisal expenses will be billed to Seller.

(f) Sellers shall submit bank statements satisfactory to BFS on a weekly basis.

2. REVOLVING INVENTORY LOAN AND SECURITY AGREEMENT. The Parties acknowledge and agree that they are entering into an Amended and Restated Revolving Inventory Loan and Security Agreement dated of even date herewith ("the Amended and Restated Inventory Agreement") pursuant to which BFS will extend to the Seller (as "Borrower" thereunder) a facility for revolving inventory loans not to exceed Five Hundred Thousand Dollars (\$500,000) to be secured by the Collateral.

3. CROSS COLLATERALIZATION. All presently existing and hereafter acquired assets in which BFS has or shall have a security interest shall secure the payment and performance of all of the Obligations under this Amended and Restated MPSA and all obligations and indebtedness under the Amended and Restated Inventory Agreement, whether joint or several, direct or indirect, absolute or contingent, due or to become due, and whether presently existing or hereafter created assets or agreements, or otherwise. Any security interest now held or hereafter acquired by BFS shall not be terminated in whole or in part until and unless all indebtedness of every kind, due or to become due, owed by the Seller is fully paid and satisfied and the terms of each of this Amended and Restated MPSA and the Amended and Restated Inventory Agreement have been fully performed by Seller. An Event of Default under this Amended and Restated MPSA shall be deemed an Event of Default under the Amended and Restated Inventory Agreement and an Event of Default under the Amended and Restated Inventory Agreement shall be deemed to be an Event of Default hereunder. This Section 4 is intended to create cross-default and cross-security between and among this Amended and Restated MPSA and the Amended and Restated Inventory Agreement. All rights granted to BFS hereunder shall be cumulative and not alternative, shall be in addition to and shall in no manner impair or affect such BFS rights and remedies under either this Amended and Restated MPSA, the Amended and Restated Inventory Agreement or any statute or rule of law.

4. **INSURANCE.** Seller shall provide insurance on the Collateral under policies which shall name BFS as a lender loss payee, which policies are set forth on Exhibit A (the "Insurance Policies") attached hereto and incorporated herein by this reference. Seller shall have insurance coverage for the Inventory for which BFS shall be named as an additional insured providing for payment of any loss to BFS and which policy shall provide for a minimum of thirty (30) days prior written notice to BFS of any cancellation.

5. **ACCOUNT DEBTOR ACCESS.** Seller shall not change, alter or otherwise modify the login and password information for any account debtor without the express written consent of BFS and providing BFS any such login or password information changes.

E. Chosen Forum. The Chosen Forum shall mean City of Thousand Oaks, County of Ventura, and State of California. Loans will be arranged or made through BFS's Department of Corporations California Lender's license.

F. Entire Agreement/Amendment and Restatement. This Agreement amends, restates, replaces and supersedes in its entirety the Original Agreement. This Agreement and the other Factoring Documents embody the entire agreement and understanding between BFS and Seller and supersede all prior agreements and understandings relating to the subject matter hereof, including the Original Agreement. All Obligations (as defined in the Original Agreement) incurred by Seller, and all security interests and liens granted to BFS by Seller in the Collateral (as defined in this Agreement) pursuant to the Original Agreement shall continue in full force and effect, subject to the terms hereof and not the Original Agreement, effective as of the date hereof. All Obligations (as defined in the Original Agreement) that are outstanding under the Original Agreement are deemed to be Obligations under this Agreement as of the date hereof. This Agreement is an amendment and a restatement of the Original Agreement and is not a novation, cancellation or accord and satisfaction of the Original Agreement. Any addendum or modification hereto must be signed by both parties and attached hereto in order to be effective.

G. Sellers' Agent. Each Seller other than Streamline hereby appoints Streamline, and Streamline shall act under this Agreement and the other Transaction Documents, as, the agent, attorney-in-fact and legal representative of all Sellers for all purposes, including requesting loans and receiving account statements and other notices and communications to Sellers (or any of them) from BFS. BFS may rely, and shall be fully protected in relying, on any request for an advance, disbursement instruction, report, information or any other notice or communication made or given by Streamline, whether in its own name, as Sellers' Agent, or on behalf of one or more Sellers, and BFS shall not have any obligation to make any inquiry or request any confirmation from or on behalf of any other Seller as to the binding effect on it of any such request, instruction, report, information, other notice or communication, nor shall the joint and several character of Sellers' obligations hereunder be affected, provided, that the provisions of this paragraph shall not be construed so as to preclude any Seller from taking actions permitted to be taken by a "Seller" hereunder.

H. Joint and Several Liability.

(i) **Joint and Several Liability.** All Advances made to Sellers and all of the other Obligations of Sellers, including all interest, fees and expenses with respect thereto, shall constitute one joint and several direct and general obligations of all Sellers. Notwithstanding anything to the contrary contained herein, each Seller shall be jointly and severally, with each other Seller, directly and unconditionally liable to BFS for all Obligations, it being understood that the Advances to each Seller inure to the benefit of all Sellers, and that BFS is relying on the joint and several liability of Sellers as co-makers in extending the Advances hereunder. Each Seller hereby unconditionally and irrevocably agrees that upon default in the payment when due (whether at stated maturity, by acceleration or otherwise) of any principal of, or interest on, any Obligation payable to BFS, it will forthwith pay the same, without notice or demand, unless such payment is then prohibited by application of law (provided such Obligation shall not be extinguished by any such prohibition).

(ii) **No Reduction in Obligations.** No payment or payments made by any Seller or any other Person or received or collected by BFS from any Seller or any other Person by virtue of any action or proceeding or any setoff or appropriation or application at any time or from time to time in reduction of or in payment of the Obligations shall be deemed to modify, reduce, release or otherwise affect the liability of each Seller under this Agreement, and each Seller shall remain liable for all of the Obligations until the Obligations are paid in full.

I. Obligations Absolute. Each Seller agrees that the Obligations will be paid strictly in accordance with the terms of the Transaction Documents, regardless of any law, regulation or order now or hereafter in effect in any jurisdiction affecting any of such terms or the rights of BFS with respect thereto, unless such payment is then prohibited by applicable law (provided such Obligation shall not be extinguished by any such prohibition.) All Obligations shall be conclusively presumed to have been created in reliance hereon. The Obligations and other

liabilities under this Agreement and the other Transaction Documents shall be absolute and unconditional irrespective of: (a) any lack of validity or enforceability of any Loan Document or any other agreement or instrument relating thereto; (b) any change in the time, manner or place of payments of, or in any other term of, all or any part of the Obligations, or any other amendment or waiver thereof or any consent to departure therefrom, including any increase in the Obligations resulting from the extension of additional credit to any Seller or otherwise; (c) any taking, exchange, release of or non-perfection in any Collateral, or any release or amendment or waiver of or consent to departure from any guaranty for all or any of the Obligations; (d) any change, restructuring or termination of the corporate structure or existence of any Seller; or (e) any other circumstance which may otherwise constitute a defense available to, or a discharge of, any Seller. This Agreement shall continue to be effective or be reinstated, as the case may be, if at any time any payment of any of the Obligations is rescinded or must otherwise be returned by BFS upon the insolvency, bankruptcy or reorganization of any Seller or otherwise, all as though such payment had not been made.

J. Waiver of Suretyship Defenses. Each Seller agrees that the joint and several liability of Sellers provided for in this Agreement shall not be impaired or affected by any modification, supplement, extension or amendment of any contract or agreement to which one or more other Sellers may hereafter agree (other than an agreement signed by BFS specifically releasing such liability), nor by any delay, extension of time, renewal, compromise or other indulgence granted by BFS with respect to any of the Obligations, nor by any other agreements or arrangements whatever with one or more other Sellers or with any other Person, each Seller hereby waiving all notice of such delay, extension, release, substitution, renewal, compromise or other indulgence, and hereby consenting to be bound thereby as fully and effectually as if it had expressly agreed thereto in advance. The liability of each Seller is direct and unconditional as to all of the Obligations and may be enforced without requiring BFS first to resort to any other right, remedy or security. Each Seller hereby expressly waives promptness, diligence, notice of acceptance and any other notice (except to the extent expressly provided for herein or in another Loan Document) with respect to any of the Obligations, this Agreement or any other Loan Document and any requirement that BFS protect, secure, perfect or insure any Lien or any property subject thereto or exhaust any right or take any action against any Seller or any other Person or any Collateral, including any rights any Seller may otherwise have under O.C.G.A. § 10-7-24 or any successor statute or any analogous statute in any jurisdiction under the laws of which any Seller is incorporated or in which any Seller conducts business.

K. Contribution and Indemnification among Sellers. Each Seller is obligated to repay the Obligations as joint and several obligors under this Agreement. To the extent that any Seller shall, under this Agreement as a joint and several obligor, repay any of the Obligations constituting Loans made to another Seller hereunder or other Obligations incurred directly and primarily by any other Seller (an "Accommodation Payment"), then, to the extent that such Seller has not received the benefit of such repaid Obligations (whether through an inter-company loan or otherwise), the Seller making such Accommodation Payment shall be entitled to contribution and indemnification from, and be reimbursed by, each of the other Sellers in an amount, for each of such other Sellers, equal to a fraction of such Accommodation Payment, the numerator of which fraction is such other Seller's "Allocable Amount" (as defined below) and the denominator of which fraction is the sum of the Allocable Amounts of all of the Sellers. As of any date of determination, the "Allocable Amount" of each Seller shall be equal to the greater of (a) the amount of such repaid Obligations actually received by such Seller (whether through an inter-company loan or otherwise), and (b) maximum amount of liability for Accommodation Payments which could be asserted against such Seller hereunder without (i) rendering such Seller "insolvent" within the meaning of Title 11 of the United States Code (the "Bankruptcy Code"), Section 2 of the Uniform Fraudulent Transfer Act (the "UFTA"), or Section 2 of the Uniform Fraudulent Conveyance Act ("UFCA"), (ii) leaving such Seller with unreasonably small capital or assets, within the meaning of Section 548 of the Bankruptcy Code, Section 4 of the UFTA, or Section 4 of the UFCA, or (iii) leaving such Seller unable to pay its debts as they become due within the meaning of Section 548 of the Bankruptcy Code, Section 4 of the UFTA, or Section 5 of the UFCA. All rights and claims of contribution, indemnification and reimbursement under this paragraph shall be subordinate in right of payment to the prior payment in full of the Obligations.

In Witness Whereof, the Parties hereto have caused this Amended and Restated MPSA to be duly executed by their respective authorized officers as of the day and year first written above.

Bibby Financial Services, Inc.,
successor in interest to
Bibby Financial Services (CA), Inc.

By: 

Title: *SVP, Head of Operations*

Streamline Design & Silkscreen, Inc.

By: 

Title: *CEO*

CERTIFICATE OF ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California }

County of Ventura }

On May 23rd 2018 before me, Kusum Manwani Notary Public,
(Here insert name and title of the officer)

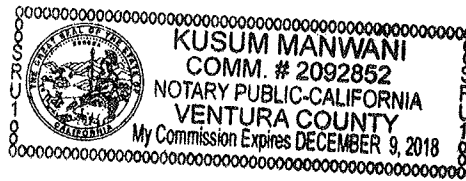
personally appeared Thomas Andrew Hill who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Kusum Manwani
Notary Public Signature

(Notary Public Seal)



ADDITIONAL OPTIONAL INFORMATION

DESCRIPTION OF THE ATTACHED DOCUMENT

Amended and Restated Master Purchase and Sale Agreement
(Title or description of attached document)
Purchase and Sale Agreement
(Title or description of attached document continued)

Number of Pages _____ Document Date 05/23/18

CAPACITY CLAIMED BY THE SIGNER

- Individual (s)
- Corporate Officer

(Title)

- Partner(s)
- Attorney-in-Fact
- Trustee(s)
- Other _____

INSTRUCTIONS FOR COMPLETING THIS FORM

This form complies with current California statutes regarding notary wording and, if needed, should be completed and attached to the document. Acknowledgments from other states may be completed for documents being sent to that state so long as the wording does not require the California notary to violate California notary law.

- State and County information must be the State and County where the document signer(s) personally appeared before the notary public for acknowledgment.
- Date of notarization must be the date that the signer(s) personally appeared which must also be the same date the acknowledgment is completed.
- The notary public must print his or her name as it appears within his or her commission followed by a comma and then your title (notary public).
- Print the name(s) of document signer(s) who personally appear at the time of notarization.
- Indicate the correct singular or plural forms by crossing off incorrect forms (i.e. ~~he/she/they~~, is/are) or circling the correct forms. Failure to correctly indicate this information may lead to rejection of document recording.
- The notary seal impression must be clear and photographically reproducible. Impression must not cover text or lines. If seal impression smudges, re-seal if a sufficient area permits, otherwise complete a different acknowledgment form.
- Signature of the notary public must match the signature on file with the office of the county clerk.
 - ❖ Additional information is not required but could help to ensure acknowledgment is not misused or attached to a different document.
 - ❖ Indicate title or type of attached document, number of pages and date.
 - ❖ Indicate the capacity claimed by the signer. If the claimed capacity is corporate officer, indicate the title (i.e. CEO, CFO, Secretary).
- Securely attach this document to the signed document with a staple.



KUSUM MANWANI
COMM. # 2092852
NOTARY PUBLIC
VENTURA COUNTY
My Commission Expires

acknowledges the Purchase Fees payable under the Amended and Restated MPSA have been calculated based upon such Minimum Sales. In the event of a Minimum Sales Shortfall, Seller shall pay to BFS a Minimum Sales Shortfall Fee. The Minimum Sales Shortfall Fee shall be in addition to any other fees, expenses or Obligations that Seller owes to BFS and shall at all times either be chargeable to Seller's Available Funds, or at BFS' option, payable to BFS by Seller upon demand.

2.3 All Advances and distribution of Available Funds shall be subject to BFS' right to maintain a Reserve. The term "Reserve" shall mean a ledger entry, not cash account, which shall serve as security in the event that BFS i) fails to receive full payment for each Account Purchased for any reason, including but not limited to customers' returns, allowances, deductions, Disputes and/or a Chargedback Account, including any ChargedBack Account BFS anticipates might arise in the future; or ii) has Obligations due and owing. BFS may, in its sole and exclusive discretion, increase or decrease such Reserve as BFS may deem necessary to protect BFS' interests. For all purposes hereunder, BFS may hold any payment instrument received until the later of i) the Collection Float Days; or ii) until BFS can confirm the availability of good and clear funds for such payment instrument.

2.4 Seller hereby unconditionally promises to pay all Obligations including all Fees. Obligations shall be payable on demand and shall accrue applicable Purchase Fees until paid in full. All Obligations shall be immediately due and payable upon termination of this Agreement for any reason. All amounts received by BFS from Account Debtors in payment of Accounts will be paid to Seller by crediting same to Seller's respective account with BFS on the Collection Date. All amounts so credited to Seller's account with BFS shall be applied first to all Obligations. Notwithstanding anything herein to the contrary, Seller shall make each payment required hereunder or under any other Factoring Document without setoff, deduction or counterclaim. Unless payment is otherwise timely made by Seller, the becoming due of any amount required to be paid under this Agreement or any other Transaction Document as principal, accrued interest, expenses or fees shall be deemed irrevocably to be a request by Seller for an Advance on the due date of, and in the amount required to pay, such principal, accrued fees or expenses and the proceeds of each such Advance if made by Seller, shall be disbursed by BFS by way of direct payment of such Obligation.

3. REPRESENTATIONS AND WARRANTIES

3.1 Seller, and those principals and/or agents of Seller authorized by Seller to execute any Assignment Schedule, each make the following warranties, representations and covenants to BFS upon the delivery of each Assignment Schedule:

- (a) Seller is either a corporation, limited liability company, limited partnership or other entity duly organized, validly existing and in good standing under the laws of the state of its incorporation or organization and is qualified and authorized to do business and is in good standing in all states in which such qualification and good standing are necessary or desirable;
- (b) Seller has offered for sale all Accounts created since the last Assignment Schedule;
- (c) Seller is the sole and absolute owner of each Account offered for sale, each Account offered for sale is sold free and clear of any liens, security interests or encumbrances and all Supporting Documentation for each Account has been duly issued prior to Seller's delivery of each Assignment Schedule;
- (d) Seller has the full legal right to sell, assign and transfer each Account and such sale, assignment and transfer thereof does not contravene or conflict with the terms of any other agreement, commitment or instrument to which Seller is a party; and upon Seller's creation of each Account, there will vest in BFS all of Seller's right, title and interest in and to each Account Purchased;
- (e) All terms governing each Account are accurately reflected in the Supporting Documentation and each Account is undisputed and represents a sum certain owed by an Account Debtor, without offset or counterclaim, which sum is due and payable not more than the Maximum Sale Terms and no Account offered for sale has any express or implied condition giving use to a bill-and-hold, guaranteed sale, sale and return, sale on approval, consignment or any right to return basis;
- (f) Each invoice plainly states on its face, in a form acceptable to BFS, that each Account offered for sale is payable only to BFS (or such other language that BFS may from time to time require);
- (g) Each Account represents Seller's bona fide sale, delivery and acceptance of merchandise or full and complete performance of service to an Account Debtor;
- (h) Seller shall not change the payment terms to any Account Debtor without the prior written consent of BFS, including but not limited to the Maximum Sale Terms;
- (i) Seller is not and has at no time been affiliated with and does not own, control, or exercise dominion, in any way whatsoever, over any Account Debtor;
- (j) Each fact in any financial record, statement, books and records or other documents Seller has shown to BFS, either before or after the execution of the Amended and Restated MPSA, were true and accurate in all material respects and no information has since come to Seller's attention to materially affect same;

- (k) Seller is not Insolvent;
- (l) Unless authorized by BFS in writing, no financing statement identifying Seller as Debtor, except as to BFS, may or has at any time during the term of the Amended and Restated MPSA been authorized or has been filed in any public office;
- (m) Seller's principal place of business is accurately set forth in the Amended and Restated MPSA, Seller maintains all of its books and records relating to its Accounts at such place and Seller has not and will not change its mailing address, principal place of business, or office in which Seller's records are kept without first giving BFS written notice thereof;
- (n) Seller has no Parent, Affiliate and/or Subsidiary that is not disclosed in writing to BFS;
- (o) No Account Purchased or any payment made with regard thereto will at any time during or after termination of the Amended and Restated MPSA be avoidable by any bankruptcy trustee under Title 11 of the United States Bankruptcy Code or by any creditor, whether under state or federal law, as a preference, fraudulent conveyance or otherwise;
- (p) Each Account Purchased shall be absolutely enforceable against Seller's Account Debtor in accordance with the express terms of the invoice, whether as to price, terms delivery, guaranty or quality;
- (q) Seller has disclosed in writing to BFS any and all delinquent federal, state and/or local taxes; and in the event Seller subsequently permits or suffers any delinquent tax at any time during the Term of the Amended and Restated MPSA, Seller will satisfy all such delinquent taxes within ten (10) days after Seller receives notice or such additional time period as is acceptable to BFS;
- (r) Seller has contemporaneously as to each Account Purchased, made the proper entry on its books and records recording the absolute sale of such Accounts to BFS;
- (s) Seller is fully responsible for the acts, omissions and/or defalcations of its employees in the event that any employee, including any agent, representative or assign, fails to deliver any check or other payment belonging to BFS;
- (t) Seller has instructed any Parent, Subsidiary or Affiliate entity that it may not sell or factor any of their Accounts to any entity other than BFS without first giving written notice to BFS and obtaining the written consent of BFS;
- (u) No inventory, equipment or other asset has been sold outside the ordinary course of Seller's business without first giving BFS written notice and obtaining BFS' written consent;
- (v) Each individual that executes and delivers the Assignment Schedule has the power and authority to do so on behalf of Seller;
- (w) Seller has immediately and in any event not more than twenty-four(24) hours upon receipt of such information by Seller, notified BFS of any Dispute, return, rejection, loss of or damage to merchandise, any request made by an Account Debtor for an extension of time to pay or any fact or circumstance with respect to any Account Purchased or Account which is likely to effect the sum owing thereon or any other fact or circumstance that is likely to give rise to any Event of Default;
- (x) Seller shall at all times execute and deliver to BFS any and all documents that BFS deems desirable or necessary to effectuate the provisions of the Amended and Restated MPSA;
- (y) Seller has no delinquent obligations under any organized labor contracts, and in the event Seller permits or suffers any such delinquent obligations at any time during the term of the Amended and Restated MPSA, Seller will satisfy all such delinquent obligations within ten (10) days after Seller receives notice or is otherwise advised of same;
- (z) Seller has no delinquent obligations under any pension obligations, and in the event Seller permits or suffers any such delinquent obligations at any time during the term of the Amended and Restated MPSA, Seller will satisfy all such delinquent obligations within ten (10) days after Seller receives notice or is otherwise advised of same;
- (aa) Each person signing on behalf of Seller has the power and authority to execute and deliver the Assignment Schedule and any other documents in connection with the Amended and Restated MPSA.
- (bb) Seller shall provide such financial information as BFS may request, including but not limited to tax returns and financial statements.

3.2 Each of the warranties, representations and covenants above shall be deemed renewed upon the submission to BFS of an Assignment Schedule and all representations, warranties and covenants above shall survive any termination of the Amended and Restated MPSA.

4. GRANT OF SECURITY INTEREST

4.1 Seller hereby grants to BFS, as security for all present and future Obligations owing to BFS, a continuing first priority and exclusive security interest in all of Seller's existing and later acquired assets, including but not limited to Accounts, Chattel Paper, Contract Rights, Deposit Accounts, Documents, Equipment, General Intangibles, Goods, Inventory, Investment Property, Instruments, Letter of Credit Rights, Payment Intangibles and all Supporting Obligations including all of Seller's books and records evidencing and/or related to all of the foregoing,

 Seller Initials
 BFS Initials

TRADEMARK

REEL: 006566 FRAME: 0022

any Commercial Tort Claim that Seller may come to have and that is subsequently specifically referenced by written amendment, as well as all of Seller's software programs, stored data, aging schedules, customer lists, books, records, returned merchandise and all property of Seller at any time coming into BFS' possession; and all lien rights associated with the Accounts, whether arising by operation of law or pursuant to contract or agreement, including but not limited to mechanic's lien rights and all Proceeds thereof of each of the foregoing (the "Collateral").

4.2 Upon execution of the Amended and Restated MPSA, BFS shall notify all Account Debtors to insure that all of Seller's Accounts, whether or not BFS makes an Advance against such Accounts, shall be paid directly to BFS at either its address set forth in the Amended and Restated MPSA or any other address that BFS may elect to use for the receipt of Account Debtor payments. Such notification may include a notation on Seller's invoices of the fact that, *inter alia*, the Account has been sold and assigned and that payment is due exclusively to BFS ("Payment Notation"), such Payment Notation to be at the sole discretion of BFS. Until all Obligations are paid in full and this Amended and Restated MPSA terminated, Seller shall not change or provide contrary remittance or payment information to any Account Debtor. BFS shall have the right at any time, either before or after the occurrence of an Event of Default and without notice to Seller, to notify any or all Account Debtors of the assignment to BFS and to direct such Account Debtors to make payment of all amounts due or to become due to Seller directly to BFS. As to any Account proceeds that do not represent any Account for which Seller has received an Advance, and so long as no Event of Default has occurred, such proceeds of Accounts shall be Available Funds for and on account of Seller, subject to the right of BFS to maintain a Reserve. Seller authorizes BFS to file any Financing Statements or other instrument that BFS deems appropriate to perfect BFS' ownership rights and security interest(s) granted hereunder without further authorization from Seller.

4.3 For the purpose of this section, all rights granted to BFS shall also include each of BFS' Parent, Affiliates and Subsidiaries ("Related Entities") to the extent Seller becomes indebted to any one or more Related Entities, in which event, BFS shall be entitled to assert on any such Related Entity's behalf any right BFS receives under the Amended and Restated MPSA. Moreover, to the extent any one of the Related Entities holds funds for or is otherwise obligated to Seller, any Related Entity may setoff or otherwise withhold such funds in favor of and disburse same to BFS or any other Related Entity to whom Seller is obligated.

4.4 In the event Seller or any one or more of its principals, officers or directors during the Term of the Amended and Restated MPSA or while Seller remains liable to BFS for any Obligations under the Amended and Restated MPSA or arising out of or related to the Amended and Restated MPSA, (i) forms a new entity; or (ii) has failed to disclose to BFS at the time of the Effective Date of this Amended and Restated MPSA an existing entity, that does business similar to that of Seller, whether in the form of a corporation, partnership, limited liability company or otherwise, such entity shall be deemed to have expressly assumed the obligations due BFS by Seller under the Amended and Restated MPSA. Upon the formation of any such entity, BFS shall be deemed to have been granted an irrevocable power of attorney with authority to file a new financing statement with the appropriate secretary of state or UCC filing office naming the newly formed successor business or undisclosed existing business, as Debtor. BFS shall be held harmless and be relieved of any liability as a result of BFS' filing of any such financing statement or the resulting perfection of a security interest in any of the successor entity's assets and BFS shall have the right to notify the successor entity's or undisclosed existing entity's Account Debtors of BFS' security interest, its right to collect all Accounts, and to notify any new lender who has sought to obtain a competing security interest of BFS' right in such entity's assets.

5. EVENTS OF DEFAULT

5.1 An Event of Default shall be deemed to have occurred under the Amended and Restated MPSA upon the happening of any one or more of the following:

- (a) Seller shall fail to pay when due any Obligation;
- (b) There shall be commenced by or against Seller any voluntary or involuntary case under the United States Bankruptcy Code, any Assignment For The Benefit of Creditors or an appointment of a receiver or custodian over Seller or its assets occurs;
- (c) Seller becomes Insolvent;
- (d) Any lien (other than a tax lien), garnishment, attachment or the like shall be filed, occur, arise or attach to any portion of the Seller's Assets and the same is not released within ten (10) days;
- (e) A judgment is entered against Seller in excess of \$10,000, unless the same is satisfied within thirty (30) days after the date of entry thereof or an appeal or appropriate proceeding for review thereof is taken within such periods and a stay of execution pending such appeal is obtained;
- (f) Seller shall fail to perform any material duty under the Amended and Restated MPSA or the Amended and Restated Inventory Agreement or any Guarantor shall fail to perform any material duty under the Guaranty Agreement;

- (g) Seller breaches any warranty, representation or covenant set forth herein, or any warranty, representation or covenant is not true, accurate or correct;
- (h) Any Assignment Schedule, report, certificate, financial statement, or other document furnished by Seller to BFS, or by any other person on behalf of Seller, is untrue, incorrect or becomes untrue or incorrect in any material respect;
- (i) Seller shall fail to pay when due any federal or state tax or fail to timely file any tax form as and when due;
- (j) A material adverse change occurs in Seller's financial condition, business or operations, or the death or disability of any principal or Guarantor;
- (k) There shall be a change in the control, management or ownership of Seller; or
- (l) BFS deems itself insecure and has reasonable cause to believe that the prospect of Seller's performance under the Amended and Restated MPSA appears jeopardized or if BFS deems itself insecure and has reasonable cause to believe that the prospect of any Guarantor's performance appears jeopardized regardless of Seller's performance.

5.2 Upon the occurrence of an Event of Default, all Obligations owed to BFS shall be immediately due and payable. BFS shall have the right, at its discretion, to cease further Advances and/or to terminate the Amended and Restated MPSA, all of which may be done without notice to Seller and BFS may immediately exercise all rights and remedies under the Amended and Restated MPSA, the Uniform Commercial Code and applicable law. Upon the occurrence of an Event of Default, BFS shall have the right to enforce all lien rights of Seller and to take any and all actions necessary or desirable to enforce such lien rights, including but not limited to mechanics lien rights, in the name of BFS.

5.3 If an Event of Default occurs due to the filing of a tax lien or levy, until such lien or levy is satisfied and discharged, BFS shall be entitled to withhold any sum(s) that may otherwise be due Seller and may remit same to the taxing authority. Moreover, Seller agrees that until the tax lien or levy is satisfied or discharged, BFS shall be entitled to collect all proceeds of Accounts and apply such proceeds to any Obligations.

5.4 An Event of Default shall not suspend or abate any performance due to BFS by Seller. Notwithstanding a termination of the Amended and Restated MPSA or other Transaction Documents by BFS, Seller's Obligations shall remain unconditionally due and owing and, after an Event of Default, any amounts due shall accrue interest at the maximum rate allowable by law until all Accounts Purchased and Obligations due BFS have been fully satisfied. Upon an Event of Default, BFS shall be authorized to notify each bank or other financial institution in which Seller maintains an account; and Seller hereby irrevocably authorizes such financial institution that so much of the funds necessary to cure Seller's breach as set forth in writing by BFS to such financial institution shall be set aside to and for the exclusive benefit of BFS. Seller shall be obligated for the Missing Payment Notation Fee on any Account Purchased in which the invoices issued by Seller to an Account Debtor do not contain the Payment Notation. Seller shall pay to BFS a Liquidation Administration Fee for each Account Purchased and outstanding at any time during a Liquidation Period. In order to satisfy any of the Obligations due BFS, Seller authorizes BFS to initiate electronic debit or credit entries through the ACH system to any Deposit Account maintained by Seller. Seller shall hold BFS harmless of any claim(s) or damage(s) that might arise as a result of BFS' notification unless it can be shown that BFS acted in bad faith and without just cause.

5.5 BFS shall be entitled to equitable relief without having to establish an inadequate remedy at law or other grounds except that the Collateral securing Seller's obligations to BFS is subject to being dissipated and such equitable relief may include injunctive or receivership remedies. Seller waives any requirement that BFS post or otherwise obtain or procure any bond. Alternatively, in the event BFS, in its sole and exclusive discretion, desires to procure and post a bond, BFS may procure and file with the court a bond in an amount up to and not greater than \$10,000.00 notwithstanding any common or statutory law requirement to the contrary. Upon BFS' posting of such bond it shall be entitled to all benefits allowed by law as if such bond was posted in compliance with state law. Seller waives any right it may be entitled to, including an award of attorney's fees or costs, in the event any equitable relief sought by and awarded to BFS is thereafter, for whatever reason(s), vacated, dissolved or reversed. Seller agrees to reimburse BFS for all reasonable attorney's fees, court costs and other expenses incurred by BFS in the enforcement of the Amended and Restated MPSA including, but not limited to, protecting or enforcing its interest in the Accounts Purchased, the Collateral securing Seller's obligations to BFS or in connection with any bankruptcy case or insolvency proceeding involving Seller. As used in this Amended and Restated MPSA, attorneys' fees will be deemed to be the full and actual cost of any legal services actually performed in connection with the matters involved, including those related to any appeal or the enforcement of any judgment calculated on the basis of the usual fee charged by attorneys performing such services. Notwithstanding the existence of any law, statute or rule, in any jurisdiction that may provide Seller with a right to attorney's fees or costs, Seller hereby waives any and all rights to hereafter seek attorney's fees or costs thereunder and Seller agrees that BFS exclusively shall be entitled to indemnification and recovery of any and all attorney's fees or costs in respect to any litigation based hereon, arising out of, or related

hereto, whether under, or in connection with, this and/or any agreement executed in conjunction herewith, or any course of conduct, course of dealing, statements (whether verbal or written) or actions of either Party. All post-judgment interest shall bear interest at the Post-Judgment Rate. In the event, after termination, Seller breaches its duty to indemnify BFS under this section, all of BFS' rights hereunder shall be deemed reinstated, including but not limited to BFS' rights to act as Seller's attorney in fact in order to file any previously terminated UCC financing statements to perfect BFS' rights as a secured party, which rights shall not be terminated until such breach is remedied. This Section 5.5 shall survive termination of the Amended and Restated MPSA.

5.6 Upon an Event of Default, all of Seller's rights of access to BFS' online, internet available services, shall be provisional pending Seller's cure of all such Events of Default. During such period of time, BFS may limit or terminate Seller's access to BFS' online services. Seller acknowledges that the information BFS makes available to Seller constitutes and satisfies any duty to respond to a Request for an Accounting or Request regarding a Statement of Account pursuant to § 9-210 of the UCC.

5.7 Seller agrees to indemnify BFS from any loss arising out of the assertion of any Avoidance Claim and shall pay to BFS on demand, the amount thereof. Seller shall notify BFS within two business days of it becoming aware of the assertion of an Avoidance Claim.

5.8 Upon an Event of Default, the Parties acknowledge that it shall be presumed commercially reasonable and BFS shall have no duty to undertake to collect any Account if BFS receives information from an Account Debtor that a material Dispute exists or in the event BFS receives information that any Dispute exists and the amount of recovery is outweighed by the likely costs and expenses to pursue any such Account. This provision is not intended to impose any duties on BFS in circumstances other than those specifically addressed herein. Furthermore, in the event BFS undertakes to collect from or enforce an obligation of an Account Debtor or other person obligated on the Collateral securing the Obligations of BFS and determines that that possibility of collection is outweighed by the likely costs and expenses that will be incurred, BFS may at any such time cease any further collection efforts and such action shall be considered commercially reasonable. Before Seller may, under any circumstances, seek to hold BFS responsible for taking any action not deemed commercially reasonable, Seller shall be required to first notify BFS, in writing, of all reasons why Seller believes BFS has acted in a manner not deemed commercially reasonable and advise BFS of the action that Seller believes BFS should take.

6. TERM AND TERMINATION

6.1 The Amended and Restated MPSA will remain in effect for the entire Term, which Term will be automatically extended for successive periods of one (1) year unless Seller provides written notice of cancellation at least sixty (60) but no more than ninety (90) days prior to the expiration of the initial or any renewal Term. Any notice of termination by Seller, however, and notwithstanding payment in full of all Obligations by Seller, is conditioned on Seller's delivery, to BFS, of a general release in a form reasonably satisfactory to BFS. Seller understands and agrees that this provision constitutes a waiver of its rights under § 9-513 of the UCC. BFS shall not be required to record any terminations or satisfactions of any of BFS' security interests unless and until Seller has executed and delivered to BFS said general release and Seller shall have no authority to do so without BFS' express written consent.

6.2 Any request by Seller to give notice of early termination of the Amended and Restated MPSA at any time prior to the end of the Term of the Amended and Restated MPSA must be in writing. In the event that BFS agrees to grant such a request for early termination or there is an Event of Default under the Amended and Restated MPSA that results in an early termination of this Agreement by either Seller or BFS, Seller shall pay BFS the Termination Fee, which Termination Fee shall be in addition to any other fees due to BFS hereunder. Any and all fees and Obligations due to BFS hereunder shall survive termination of this Amended and Restated MPSA.

6.3 Any termination of the Amended and Restated MPSA shall not affect BFS' security interest and BFS' ownership of the Accounts Purchased, and the Amended and Restated MPSA shall continue to be effective, until all transactions entered into and Obligations incurred hereunder have been completed and satisfied in full. Notwithstanding anything to the contrary, and assuming no Event of Default has occurred pursuant to which BFS may terminate without notice, BFS may terminate the Amended and Restated MPSA at any time by giving not less than thirty (30) days notice.

7. OPERATIONS AND PROCEDURES

7.1 Seller irrevocably appoints BFS as its attorney and agent in fact with power to: (a) file any Financing Statements, amendments or other filings; (b) strike Seller's address from any correspondence to any Account Debtor and insert BFS' address; (c) receive, open and discard all mail addressed to Seller via BFS' address;

(d) endorse the name of Seller or Seller's trade name on any check or other evidence of payment payable to Seller that may come into the possession of BFS; (e) demand, sue for, compromise and/or collect any and all moneys due to Seller; (f) compromise, prosecute or defend any action, claim or proceeding as to the Accounts; (g) send notices, demand or requests to the Account Debtor in the name of Seller for any purpose whatsoever deemed necessary or desirable by BFS including, without limitation, notices regarding payment instructions or seeking estoppel information on the Accounts and such other matters integral to the relationship; and (h) upon an Event of Default, be irrevocably authorized to redirect all of Seller's mail to BFS and after reviewing all mail in order to ascertain which portion is applicable to the Accounts Purchased or Collateral, make all other mail available for pick-up by Seller and take such other actions as may be necessary and proper to carry out the terms of this Agreement and the Transaction Documents. The Power of Attorney granted to BFS herein shall be deemed to be coupled with an interest and, therefore, irrevocable until all Accounts Purchased are paid in full and all Obligations to BFS are satisfied. Seller shall execute and supply to BFS any and all forms (i.e. Forms 8821 and/or 2848) that BFS may require in order to enable BFS to obtain and receive tax information issued by the Department of the Treasury, Internal Revenue Service, or receive refund checks.

7.2 Should Seller receive payment of all or any portion of any Account, Seller shall immediately notify BFS of the receipt of the payment, hold said payment in trust for BFS separate and apart from Seller's own property and funds, and shall deliver said payment to BFS within one (1) business day in the identical form in which received. Should Seller receive any check or other payment instrument with respect to an Account and fail to surrender and deliver to BFS said check or payment instrument within one (1) business day, BFS shall be entitled to charge Seller a Misdirected Payment Fee to compensate BFS for the additional administrative expenses that the Parties acknowledge is reasonably likely to occur as a result of a breach of this section. In the event any Goods, the sale of which gave rise to an Account Purchased, are returned to or repossessed by Seller, such Goods shall be held by Seller in trust for BFS, separate and apart from Seller's own property and subject to BFS' sole direction and control.

7.3 All of BFS' electronically maintained data, all hard-copy print-outs of such data, including all of BFS' books and records and all other data in relation thereto between BFS and Seller shall be admissible in evidence without objection by Seller as prima facie evidence of the status of the Accounts and Obligations due BFS. Each statement, report, or accounting rendered or issued by BFS to Seller shall be deemed conclusively accurate and binding on Seller unless within fifteen (15) days after the date of issuance or the date such information is posted or otherwise made available on BFS' internet website, Seller notifies BFS to the contrary by registered or certified mail, setting forth with specificity the reasons why Seller believes such statement, report, accounting or the date such information is posted or otherwise made available on BFS' internet website is inaccurate, as well as what Seller believes to be correct amount(s). Seller's failure to receive any monthly statement shall not relieve it of the responsibility to request such statement or otherwise excuse Seller from accessing the BFS' internet website to obtain such information; and Seller's failure to do so shall nonetheless bind Seller to whatever BFS' records or website reports.

7.4 BFS shall have the right to conduct an examination and verification of a company's financial, accounting, accounts receivable and invoicing records and supporting documents by an employee of BFS or a professional selected by BFS to verify the accuracy of such records (an "Audit") upon i) an Event of Default; ii) a breach of the Amended and Restated MPSA by Seller; iii) in order to protect BFS security interest hereunder; or iv) a request of Seller to modify any terms or conditions of the Amended and Restated MPSA. BFS shall be permitted to conduct an Audit upon 24 hours advance notice to Seller. Seller shall be responsible for all Audit Expenses.

7.5 All Accounts sold to and purchased by BFS are with recourse to Seller and at Seller's sole credit risk. BFS shall have the right to require any Advances on any Accounts be Chargedback at any time, either before or after maturity, for any reason, including but not limited to recourse for an Account or in connection with the termination of the Amended and Restated MPSA. In the event of a Chargedback Account: (i) Seller agrees to pay BFS the full amount thereof, and failing to do so, Seller shall be responsible for all damages, including all expenses incurred by BFS in attempting to collect or enforce payment of such Accounts; and (ii) in addition to BFS' right to receive its other fees set forth in the Amended and Restated MPSA, BFS shall be entitled to assess a Chargeback Fee.

7.6 Seller agrees that it may not grant any allowance, credit or adjustment to an Account Debtor, or accept any return of merchandise, without express prior written consent of BFS. BFS may, at its option, settle and/or compromise any Dispute without any liability to Seller so long as the compromise is done in good faith. BFS, as the sole and absolute owner of the Accounts, shall have the sole and exclusive power and authority to collect each such Account, through legal action or otherwise, and exercise, to the maximum extent permitted by applicable law, any other right now existing or hereafter arising with respect to any of such Accounts. Any settlement made by BFS shall not relieve Seller of any of its obligations under the Amended and Restated MPSA and no Chargeback shall be deemed a reassignment of BFS' interest in the Accounts.

7.7 BFS shall have the right to set a funding limit for each Account Debtor (the "Funding Limit"), which Advances to each Account Debtor shall not exceed the Funding Limit. Seller acknowledges that BFS is not a credit agency and that its credit decisions are based on information received from third-party sources. Accordingly, BFS reserves in its sole and exclusive discretion the right to set and modify the Account Debtor Funding Limits at any time and from time to time.

7.8 Any Account other than an Account designated as a Special Terms Account, over ninety (90) days old on which Account Seller has received an Advance shall be charged an Over 90/150 Day Fee, in addition to any other fees charged to such Account. Any Special Terms Account on which Seller has received an Advance shall be charged an Over 90/150 Day Fee when such Account is over 150 days old. BFS, as the sole and absolute owner of the Accounts, shall have the sole and exclusive power and authority to collect each such Account, through legal action or otherwise, and exercise, to the maximum extent permitted by applicable law, any other right now existing or hereafter arising with respect to any of such Accounts. Any settlement made by BFS shall not relieve Seller of any of its obligations under the Amended and Restated MPSA and no Over 90/150 Day Fee shall be deemed a reassignment of BFS' interest in the Accounts.

8. GOVERNING LAW AND ATTORNEYS FEES

8.1 The Amended and Restated MPSA shall be deemed executed in the Chosen Forum and in all respects shall be governed by and construed in accordance with the domestic laws of the Chosen Forum, without regard to any choice of law or conflict of law provisions or rules (whether of the Chosen Forum or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than the Chosen Forum. Seller consents to the jurisdiction of any state or federal court sitting in the Chosen Forum in any action or proceeding the subject matter of which arises out of or relates, directly or indirectly, to the Amended and Restated MPSA and each of Seller and BFS agree that all claims in respect to any action or proceeding shall be heard and determined in the Chosen Forum. Seller further agrees to waive any right it may have to seek a change of venue based on inconvenience of the Chosen Forum or otherwise.

8.2 **BFS AND SELLER AND ANY OBLIGOR HEREUNDER KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVE ANY RIGHT THAT ANY PARTY MAY HAVE TO A TRIAL BY JURY IN RESPECT TO ANY LITIGATION BASED HEREON, ARISING OUT OF OR RELATED HERETO WHETHER, UNDER OR IN CONNECTION WITH THE AMENDED AND RESTATED MPSA OR ANY AGREEMENT CONTEMPLATED TO BE EXECUTED IN CONJUNCTION HERewith, INCLUDING ANY COURSE OF DEALING, STATEMENTS (WHETHER VERBAL OR WRITTEN) OR ACTIONS OF EITHER PARTY.** To the extent any law in the Chosen Forum would refuse enforcement of this waiver of jury trial provision, then, in such event, and only in such event, the Parties agree that BFS may elect to apply that the law of the state, if different from the Chosen Forum, in which the Seller is either organized or is physically located in order to make this provision enforceable. If there is no difference between such other state's law and the Chosen Forum, then BFS shall exclusively be entitled to require that any controversy or claim arising out of or relating to the Amended and Restated MPSA, or any breach thereof, shall be settled by arbitration administered by the American Arbitration Association under its Commercial Arbitration Rules, and judgment on the award rendered by the arbitrator(s) may be entered in any court in the Chosen Forum. Notwithstanding the foregoing, BFS shall be entitled to institute suit in order to obtain provisional relief in the form of prejudgment remedies, including, replevin, garnishment, attachment or the like without being held to have waived its right to compel arbitration on all remaining issues and in such event any claim that Seller may wish to assert shall be subject to arbitration.

Nevertheless, in the event any portion of this transaction is characterized as a loan and as it relates to the inventory advance, the parties hereto intend to contract in strict compliance with applicable usury law from time to time in effect. In furtherance thereof such parties stipulate and agree that none of the terms and provisions contained in this Agreement shall ever be construed to create a contract to pay, for the use, forbearance or detention of money, interest in excess of the maximum rate (as hereinafter defined) from time to time in effect. Neither Seller, any present or future guarantor or any other person hereafter becoming liable for the payment of the Obligations, shall ever be liable for any obligation that may be characterized as unearned interest thereon or shall ever be required to pay any obligation that may be characterized as interest thereon in excess of the maximum amount that may be lawfully charged under applicable law from time to time in effect, and the provisions of this section shall control over all other provisions of this Agreement which may be in conflict therewith. If any indebtedness or Obligation owed by Seller hereunder is determined to be in excess of the legal maximum, or BFS shall otherwise collect moneys which are determined to constitute interest which would otherwise increase the interest on all or any part of such Obligations to an amount in excess of that permitted to be charged by applicable law then in effect, then all such sums determined to constitute interest in excess of such legal limit shall, without penalty, be promptly applied to reduce the then outstanding obligations or, at BFS's option, returned to Seller or the other payor thereof upon such determination. If at any time the rate at which interest is payable hereunder exceeds the maximum rate, the amount outstanding

hereunder shall cease bearing interest until such time as the total amount of interest accrued hereunder equals (but does not exceed) the maximum rate applicable hereto.

9. INDEMNIFICATION

9.1 At no time shall BFS owe any duty or obligation to any Account Debtor in connection with the Goods or services sold or Accounts Purchased. Seller agrees to indemnify BFS against any liability, loss or expense caused by, or arising out of, any costs or expenses and any liability that may arise due to an action or other proceeding brought by an Account Debtor or third party against BFS the collection of any Account, the rejection or revocation of merchandise or disputes with respect to any services of every kind and nature by an Account Debtor.

9.2 Seller will indemnify and hold harmless BFS and its officers, directors, principals, partners, members, employees, agents, representatives and affiliates (each being an "Indemnified Party") from and against any and all losses, claims, actions, damages and liabilities, joint or several, to which such Indemnified Party may become subject under any applicable federal or state law, made by any third party or otherwise, relating to or in connection with the Amended and Restated MPSA and the Transaction Documents and the performance by such Indemnified Party under the Amended and Restated MPSA and the Transaction Documents, and Seller will reimburse any Indemnified Party for all costs and expenses (including, without limitation, reasonable attorneys' fees and expenses) as they are incurred in connection with the investigation of, preparation for or defense of any pending or threatening claim, or any action or proceeding arising therefrom, whether or not such Indemnified Party is a party thereto. The provisions of this Section 9.2 shall survive the termination of the Amended and Restated MPSA.

10. GENERAL PROVISIONS

10.1 Assignment. This Amended and Restated MPSA shall inure to the benefit of and is binding upon the Parties, together with their executors, administrators, successors, and assigns. Seller hereby gives BFS the right at any time to assign and delegate all of its rights and duties under the Amended and Restated MPSA to any entity. Seller may neither assign any of its rights nor delegate any of its duties under the Amended and Restated MPSA to any party without the express prior written consent of BFS, which consent shall be in BFS' sole and exclusive discretion.

10.2 Entire Agreement/Amendments/Waivers. The Amended and Restated MPSA contains the entire understanding of the Parties hereto and no amendment, modification or waiver, oral or otherwise, with respect to any provision will in any event be effective unless the same is in writing and signed by an officer of BFS. Such amendment, modification or waiver must have an original signature of an officer of BFS, and no email correspondence shall be considered a writing for purposes of such amendment, modification or waiver. No failure or delay on BFS' part in exercising any right, power or remedy granted to BFS hereunder will constitute or operate as a waiver thereof, nor shall any single or partial exercise of any such right, power or remedy preclude any other or further exercise thereof or the exercise of any other right set forth herein.

10.3 Breach of BFS. Seller's sole remedy for any breach alleged to have been committed by BFS of any obligation or duty owed under the Amended and Restated MPSA, any other agreement between Seller and BFS or any duty or obligation arising out of or related to the Amended and Restated MPSA shall be limited to the Available Funds, which Available Funds shall be the amount five (5) days after the time notice in writing of such breach is first given to BFS. Under no circumstances shall BFS be liable for any incidental, special or consequential damages, including, but not limited to, loss of goodwill, loss of profit, or any other losses associated therewith, whether BFS did or did not have any reason to know of a loss that may result from any general or particular requirement of Seller.

10.4 Relationship of Parties. Seller acknowledges that the relationship under the Amended and Restated MPSA is principally that of seller and purchaser and that there is not now, and Seller will at no time seek or attempt to establish, any fiduciary or confidential relationship between BFS and Seller. Seller waives any right to assert, now or in the future, the existence or creation of any fiduciary or confidential relationship between BFS and Seller in any action or proceeding, whether by way of claim, counterclaim, cross claim or otherwise.

10.5 Notices. Any notice or other communication by either Party to the other in connection with an Event of Default, breach of the Amended and Restated MPSA, termination of the Amended and Restated MPSA or any written notice as provided for herein shall be in writing and shall be sent to the address set forth in Paragraph A of the Amended and Restated MPSA and shall give and be deemed to have been duly given, (i) three Business Days following deposit in the United States mail, with proper postage prepaid; (ii) upon delivery if delivered by hand to the Party to be notified; or (iii) the following day if sent by a nationally recognized overnight delivery service. The



Seller Initials

BFS Initials

TRADEMARK**REEL: 006566 FRAME: 0028**

ANNEX A
STANDARD PROVISIONS DEFINITIONS

All capitalized terms in the Amended and Restated MPSA shall have the meanings ascribed to such term as it is defined or identified in the Amended and Restated MPSA in either this Annex A or Paragraph C styled "Terms Definitions" or, if not so defined or identified in the Amended and Restated MPSA, as such term may be defined by the Uniform Commercial Code as adopted by the Chosen Forum (the "UCC"). The following terms used herein shall have the following meanings:

"Account Debtor" shall mean any Person who is obligated on an Account, chattel paper or general intangible.

"Accounts Purchased" shall mean all Accounts that are offered for sale to BFS regardless of whether an Advance is made against such Account.

"Advance" shall mean the amount BFS may pay Seller upon delivery of Accounts offered for sale based upon the applicable Advance Rate.

"Affiliate" shall mean a Person that that owns or controls, directly or indirectly, any Person that controls or is controlled by or is under common control with the Person, and each of that Person's directors, officers, members or managers.

"Aggregate Net Face Value" shall mean the face amount of all Accounts identified on an Assignment Schedule less any allowances, discounts or deductions available to an Account Debtor or any other deduction that Seller may make available.

"Assignment Schedule" shall mean a schedule of assignment that shall be used by Seller to offer purchaser Accounts for sale. In the event Seller shall electronically transmit Accounts for sale to purchaser hereunder via purchaser's On-line Reporting Service by either directly keying or uploading such information, the submission of the same shall be considered an Assignment Schedule hereunder.

"Available Funds" shall mean the Accounts Purchased have been collected in good funds after the expiration of the Collection Float Days minus (i) the Advance; (ii) all returns, credits, allowances and discounts calculated upon shortest or longest selling terms, at BFS' option, on any alternative terms of sale offered by Seller to Account Debtors; (iii) any Chargedback Account; (iv) any and all expenses arising in connection with the Amended and Restated MPSA; (v) any and all fees; (vi) all other costs or expenses incurred by BFS; and (vii) BFS' right to use such Available Funds to secure any Obligation.

"Avoidance Claim" shall mean any claim that any payment received by BFS is avoidable under the Bankruptcy Code or any other debtor relief statute.

"Calendar Quarter" shall be defined as: Quarter One - January, February, March; Quarter Two - April, May, June; Quarter Three - July, August, September; Quarter Four - October, November and December.

"Chargedback" shall mean an Account Purchased that is repurchased by Seller under the terms and conditions herein, which repurchase shall be an Obligation of Seller.

"Chargeback Fee" shall mean a fee in the amount of [REDACTED] for each Account Purchased that Seller, after being requested to repurchase, fails to repurchase.

"Collection Float Days" shall mean an additional three (3) business days after BFS' receipt of an Account Debtor's payment.

"Dispute" means any alleged defense, counterclaim, offset, dispute or other claim asserted by an Account Debtor regarding any Account Purchased which relates to the sale of goods, rendition of services or any other transaction or occurrence, whether or not bona fide.

"Effective Date" shall mean the date Seller executes this Amended and Restated MPSA.

"Eligible Accounts" shall mean all Accounts which are eligible for Advance, which Eligible Accounts may exclude i) any invoices for Special Terms Accounts over one hundred fifty (150) days old; ii) any invoices that are in Dispute; iii)

any invoices over ninety (90) days old for Accounts other than Special Terms Accounts; iv) any invoices on which an Advance will exceed the assigned Account Debtor credit limit established by BFS; v) any invoices for which incomplete back up documentation has been submitted; vi) any invoice billed to an Account Debtor of which fifty percent (50%) of such Account Debtor's overall account is more than 90 days outstanding other than Special Terms Accounts; vii) any invoices owed by an Account Debtor that is the subject of an insolvency proceeding; or viii) any invoice which does not meet the terms and conditions of the Amended and Restated MPSA.

"Event of Default" shall mean those events described in Section 5 of these Standard Provisions.

"Factoring Documents" means, collectively, this Agreement, and Riders hereto and any other agreements, instruments, certificates or other documents entered into in connection with this Agreement and any other agreement executed by Seller, any guarantor or any affiliate of Seller or any guarantor pursuant hereto or in connection herewith.

"Field Review or Audit Expenses" shall mean the expenses associated with an Audit, including but not limited to [REDACTED] per day and any related travel expenses.

"Guarantor" shall mean any person or entity guarantying the Obligations of Seller under the Amended and Restated MPSA.

"Insolvent" shall mean Seller is generally not able to pay its debt obligations as they become due.

"LIBOR" shall mean, at any time, an interest rate per annum equal to the interest rate per annum (rounded upwards, if necessary, to the nearest 1/100th of 1%) as published in the "Money Rates" section of The Wall Street Journal (or another national publication selected by Lender) as the one-month London Interbank Offered Rate for United States dollar deposits (or, if such page shall cease to be publicly available or, if the information/description contained on such page, in Lender's sole judgment, shall cease to accurately reflect such London Interbank Offered Rate, then such rate as reported by any publicly available recognized source of similar market data selected by Lender that, in Lender's reasonable judgment, accurately reflects such London Interbank Offered Rate).

"Liquidation Administration Fee" shall mean an additional [REDACTED] of the face value of each unpaid Account during the Liquidation Period.

"Liquidation Period" shall mean a period beginning on the earliest date of (i) the commencement by or against Seller by the filing of any voluntary or involuntary petition under the United States Bankruptcy Code; (ii) the general assignment by Seller of its assets in order to commence a proceeding for the benefit of its creditors; (iii) the appointment of or taking possession by a receiver, liquidator, assignee, custodian or similar official of all or a substantial part of Seller's assets; or (iv) the cessation of business of Seller and ending on the date on which BFS has actually received all fees, costs, expenses and Obligations owing.

"Maximum Sale Terms" shall mean for the Special Terms Accounts, a due date for payment of the goods and services of no more than one hundred fifty (150) days from the date of the invoice, and for all other Accounts, a due date for payment of the goods or services of ninety (90) days from the date of the invoice.

"Minimum Sales Shortfall" shall mean Seller's failure in any given month to meet its Minimum Sales.

"Minimum Sales Shortfall Fee" shall mean the fee incurred by Seller in the event of a Minimum Sales Shortfall, which fee shall be calculated as (Minimum Sales minus Actual Sales) x Purchase Fees, *provided, however*, that for the purposes of calculating the Minimum Monthly Sales Shortfall, Purchase Fees shall not include any Funding Fees.

"Misdirected Payment Fee" shall mean the greater of (i) [REDACTED] of the amount of any payment; or (ii) [REDACTED] which Misdirected Payment Fee shall be assessed in the event an Account Purchased has been received by Seller and not delivered in kind to BFS on the next business day following the date of receipt by Seller, or [REDACTED] of the amount of any such payment which has been received by Seller as a result of any action taken by Seller to cause such payment to be made to Seller in order to compensate BFS for the reasonably likely additional administrative expenses caused by this conduct.

"Missing Payment Notation Fee" shall mean [REDACTED] of the amount due on an Account Purchased at the time of purchase.

"Net Funds Employed" shall mean all Advances plus all Purchase Fees made under this Agreement and the Amended and Restated Inventory Purchase and Sale Agreement.

