

## TRADEMARK ASSIGNMENT COVER SHEET

Electronic Version v1.1  
Stylesheet Version v1.2

ETAS ID: TM410385

<b>SUBMISSION TYPE:</b>	NEW ASSIGNMENT		
<b>NATURE OF CONVEYANCE:</b>	SECURITY INTEREST		
<b>SEQUENCE:</b>	3		
<b>CONVEYING PARTY DATA</b>			
<b>Name</b>	<b>Formerly</b>	<b>Execution Date</b>	<b>Entity Type</b>
WHOLESALE DECOR LLC		10/05/2016	Limited Liability Company: OHIO
<b>RECEIVING PARTY DATA</b>			
<b>Name:</b>	Woodforest National Bank		
<b>Street Address:</b>	28001 Cabot Drive		
<b>Internal Address:</b>	Suite 240		
<b>City:</b>	Novi		
<b>State/Country:</b>	MICHIGAN		
<b>Postal Code:</b>	48377		
<b>Entity Type:</b>	National Banking Association: UNITED STATES		
<b>PROPERTY NUMBERS Total: 3</b>			
<b>Property Type</b>	<b>Number</b>	<b>Word Mark</b>	
<b>Registration Number:</b>	2675276	OWI	
<b>Registration Number:</b>	3425365	OHIO WHOLESALE, INC.	
<b>Registration Number:</b>	3549675	JUST BECAUSE. . . STUDIOS	
<b>CORRESPONDENCE DATA</b>			
<b>Fax Number:</b>	3304348888		
<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>			
<b>Phone:</b>	330-434-9999		
<b>Email:</b>	iplaw@etblaw.com		
<b>Correspondent Name:</b>	Roger D. Emerson		
<b>Address Line 1:</b>	1914 Akron Peninsula Rd		
<b>Address Line 4:</b>	Akron, OHIO 44313		
<b>NAME OF SUBMITTER:</b>	Andrew S. Curfman		
<b>SIGNATURE:</b>	/andrew s. curfman/		
<b>DATE SIGNED:</b>	12/28/2016		
<b>Total Attachments: 112</b>			
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EXECUTION VERSION

**LOAN AND SECURITY AGREEMENT**

**DATED: OCTOBER 5, 2016**

**AMONG**

**WOODFOREST NATIONAL BANK**

**(the "LENDER,")**

**AND**

**DEOGRATIAS LLC**

**WHOLESALE DÉCOR LLC**

**(collectively, the "BORROWERS" and each a "BORROWER")**

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**LOAN AND SECURITY AGREEMENT**

Woodforest National Bank ("Lender"), with a place of business at 28001 Cabot Drive, Suite 240, Novi, Michigan 48377, and DeoGratias LLC, an Ohio limited liability company ("DeoGratias") and Wholesale Décor LLC, an Ohio limited liability company ("WD"), and together with DeoGratias and each other Person that joins this Agreement as a borrower, each a "Borrower" and collectively the "Borrowers") enter into this Loan and Security Agreement (this "Agreement") on October 5, 2016 (the "Closing Date").

**1. SUMMARY OF LENDING TERMS**

The following are the general terms of the loans to be made under this Agreement:

1.1 **Revolving Loans – Generally.** Lender is extending a revolving line of credit (the "Revolving Credit") that is evidenced by a promissory note dated on or about the Closing Date (the "Revolving Note"). Advances and letters of credit under the Revolving Credit may not exceed the lesser of (i) the Revolving Commitment or (ii) the Borrowing Base. The "Revolving Commitment" [REDACTED] and the "Borrowing Base" is initially:

- (a) up to 90.0% (which shall automatically reduce by 1 percentage point (1.0%) each quarter during the Term, starting with the quarter that begins January 1, 2017) of the aggregate outstanding amount of Eligible Accounts that are: (i) greater than \$1,000; and (ii) subject to credit insurance acceptable to Lender; plus
- (b) up to 85.0% (which shall automatically reduce by 1 percentage point (1.0%) per month during the Term, on the 1<sup>st</sup> day of such month, beginning on December 1, 2016) of the aggregate outstanding amount of Eligible Accounts that are: (i) less than \$1,000; or (ii) not subject to credit insurance acceptable to Lender; plus
- (c) up to 85% of the appraised Net Orderly Liquidation Value of Eligible Inventory acquired as part of the Acquisition, calculated on/by the pre-Acquisition net book value of such Eligible Inventory; plus
- (d) up to the lesser of:
  - (i) 65% of the lower of cost or market value of Eligible Inventory acquired post-Acquisition; and
  - (ii) 85% of the appraised Net Orderly Liquidation Value of Eligible Inventory acquired post-Acquisition;

minus
- (e) the Availability Block; minus

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- (b) the Availability Reserves.

Notwithstanding the above, at no time may the total of (c) and (d) above exceed \$3,500,000 for purposes of calculating the Borrowing Base. The advance rate against Eligible Accounts reduces by one-tenth of one percentage point (0.1%) for each one-tenth of one percentage point (0.1%) that Dilution exceeds 5%.

1.2 **Term Loan – Generally.** Lender is making [REDACTED] term loan (the “Term Loan”) that is evidenced by a promissory note dated on or about the Closing Date (the “Term Note”).

1.3 **Letters of Credit – Generally.** As part of the Revolving Credit, Lender is extending [REDACTED] Letter of Credit sub-facility to Borrowers. The Letter of Credit Exposure is reserved against availability under the Revolving Credit (the “LC Reserves”) and is also treated as an outstanding advance reducing the Revolving Commitment. In addition to other usual and customary charges, fees, and costs charged by Lender with respect to Letters of Credit, Borrowers must pay Lender in advance of the issuance date or any renewal date a fee equal to 4.00% of the Letter of Credit. In addition, Borrowers must pay to Lender on demand all fees, expenses, and charges customarily charged by Lender in connection with the opening, amendment, or renewal of any Letter of Credit and any acceptances created in connection with a Letter of Credit.

1.4 **Interest Rates – Generally.** Subject to Section 3.4, the following are the interest rates on the Loans:

- (a) For Prime-Based Loans, the Prime Rate plus the Applicable Margin.
- (b) For LIBOR-Based Revolving Loans, the LIBOR Rate plus the Applicable Margin.

1.5 **Closing Fee.** Borrowers must pay Lender a closing fee equal to 1.0% of the aggregate amount of the Loans (the “Closing Fee”) on the Closing Date. This fee is nonrefundable in whole or in part and is fully-earned on the Closing Date.

1.6 **Unused Line Fees.** On the first day of each month and on the Maturity Date, Borrowers must pay Lender a monthly unused-line fee in arrears equal to 0.375% per annum times the Average Unused Portion of the Revolving Commitment during the immediately preceding month (the “Unused Line Fees”).

1.7 **Collateral Monitoring Fee.** On the first day of each month after the Closing Date and on the Maturity Date, Borrowers must pay Lender a collateral monitoring fee in the amount of \$750 per month or part thereof, until the Obligations are paid in full and this Agreement is terminated.

1.8 **Certain Guaranties.** All Obligations must be guaranteed by the Guarantors.

1.9 **Term.** Unless terminated earlier, the term of this Agreement expires on the second anniversary of the Closing Date (the “Term”).

## 2. DEFINITIONS AND RULES OF CONSTRUCTION

2.1 **Definitions.** In addition to the terms defined in this Agreement, the following terms have the given definitions:

“Accommodation Payment” is defined in Section 9.5(d).

“Acquired Assets” means collectively: (a) all assets purchased by Borrower pursuant to the Acquisition Documents, including, without limitation, the Acquisition Accounts and the Acquisition Inventory; and (b) the Neofill Assets and the Neofill Domain Name.

“Acquisition” means the acquisition by WD of substantially all of the personal property assets of Ohio Wholesale, Inc., an Ohio corporation, from The Huntington National Bank, a national banking association, as part of a secured party sale, as more specifically described in the Acquisition Documents.

“Acquisition Accounts” means Accounts purchased as part of the Acquisition, excluding Excluded Assets.

“Acquisition Inventory” means Inventory purchased as part of the Acquisition.

“Acquisition Documents” means, collectively: (a) that certain Secured Party Sale Agreement, dated on or about the date hereof between The Huntington National Bank, as national banking association (“Huntington”), as secured party and WD, as buyer, and all documents related thereto or executed in connection therewith, including, without limitation, (i) the Blocked Account Agreement, by and among Huntington, Seller, WD and Lender, (ii) the Trademark Assignment, by and between Huntington and WD, (iii) the Copyright Agreement, by and between Huntington and WD, and (iv) the Bill of Sale between Huntington and WD, each dated on or about the Closing Date; and (b) that certain Bill of Sale Agreement, effective on or about the Closing Date, between Mark Harbarger and WD.

“Affiliate” means, with respect to any entity, another Person that directly, or indirectly through one or more intermediaries, Controls or is Controlled by or is under common Control with the applicable entity.

“Aged Accounts Receivable Agreement” means that certain Accounts Receivable Purchase Agreement by and between WD and Mark N. Harbarger, dated as of September 22, 2016, as the same may be amended, restated or otherwise modified from time to time.

“Aggregate Tax Distributions Amount” means, for Pass-Through Borrowers for any fiscal period, the aggregate of the taxes assumed to be payable by the shareholders or members, as applicable, of each such Borrower, due to that Borrower’s income, calculated for all shareholders or members, as applicable, of that Borrower at the highest federal and state marginal rates applicable to any shareholder or member, as applicable, of that Borrower and without taking into account any losses allocated to any shareholder or member of that Borrower, as applicable.

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“Applicable Margin” means the following annual percentages:

Prime-Based Revolving Loans	LIBOR-Based Revolving Loans)	Prime-Based Term Loan
1.00%	4.00%	2.00%

“Approved Electronic Communication” means each notice, demand, communication, information, document and other material transmitted, posted or otherwise made or communicated by e-mail, E-Fax, the StuckyNet System<sup>®</sup>, or any other equivalent electronic service agreed to by Lender, whether owned, operated or hosted by Lender, any of its Affiliates or any other Person, that any party is obligated to, or otherwise chooses to, provide to Lender under this Agreement or any other Loan Document, including any financial statement, financial and other report, notice, request, certificate and other information material. Approved Electronic Communications does not, however, include any notice, demand, communication, information, document or other material that Lender specifically instructs a Person to deliver in physical form.

“Availability Block” means [REDACTED]

“Availability Reserves” means the reserves Lender from time-to-time determines in its Discretion as being appropriate to reflect the impediments to Lender’s ability to realize upon the Collateral and liabilities that impact on the anticipated amount realizable from the Collateral. Availability Reserves may include, among others, reserves based on the following:

- (a) Rent for any leased location where any Collateral is located;
- (b) Taxes and other governmental charges, including ad valorem, personal property, sales, and other taxes that may have priority over Lender’s security interests;
- (c) Present and future warranty and maintenance claims;
- (d) Customer deposits;
- (e) Claims that Lender believes in its Discretion could have priority over the Obligations; and
- (f) The Inventory Reserves.

“Average Unused Portion of the Revolving Commitment” means, for any calendar month or portion thereof, the Revolving Commitment less the average Daily Balance outstanding during the month.

“Borrower” and “Borrowers” is defined in the preamble to this Agreement.

“Borrowing Base” is defined in Section 1.1.

“Borrowing Base Certificate” is defined in Section 7.4(a).

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"Business Day" means a day on which Lender is open for business in Texas and Michigan (other than Saturdays and Sundays).

"Business Records" means all of each Loan Party's books and records including all of the following: ledgers, records indicating, summarizing, or evidencing each Loan Party's assets (including the Collateral) or liabilities; all information relating to each Loan Party's business operations or financial condition; and all computer programs, disk or tape files, printouts, runs or other computer prepared information, and the equipment containing the information.

"Capital Expenditures" means, with respect to Borrowers for any period, the sum of all the expenditures (whether paid in cash, capitalized as an asset, or accrued as a liability) made or incurred by any Borrower during the period which, in accordance with GAAP, are or should be included in "capital expenditures" or similar items reflected on Borrowers' statements of cash flows (including under any Capital Leases).

"Capital Lease" means a capital lease or a lease that should be treated as a capital lease under GAAP.

"Change of Control" means (a) DeoGratias is not at all times the sole member of WD, (b) Philip Daetwyler and Jim Vargas do not at all times own one hundred percent (100%) of the voting shares of Equity Interests of DeoGratias on a fully diluted basis, (c) the occurrence of any event which results in the transfer of the power to direct or cause the direction, by contract or otherwise, of the management and policies of the Borrowers, (d) any merger or consolidation of or with any Loan Party or sale of all or substantially all of the property or assets of any Loan Party, (e) in respect of any Person, the replacement of a majority of the directors or managers who constituted the board of directors or the managing body on the Closing Date for any reason other than death or disability, and the replacement has not been approved by the board of directors or managing body as constituted on the Closing Date, or (f) in respect of any Person, that Person does not own, free and clear of all Liens, at least 100% of the outstanding voting Equity Interests of any existing or future Subsidiary.

"Claims" means any demand, claim, action or cause of action, damage, liability, loss, cost, debt, expense, obligation, tax, assessment, charge, lawsuit, contract, agreement, undertaking, or deficiency, of any kind or nature, whether known or unknown, fixed, actual, accrued or contingent, liquidated or unliquidated (including interest, penalties, attorneys' fees and other costs and expenses incident to proceedings or investigations relating to, or the defense of, any of the foregoing), whether or not litigation has commenced.

"Closing Date" is defined in the preamble to this Agreement.

"Closing Fee" is defined in Section 1.5 of this Agreement.

"Collateral" means all of each Borrower's present and future assets and property and Proceeds thereof, other than the Excluded Assets, including without limitation: all present and future Accounts; Business Records; Chattel Paper; Commercial Tort Claims; Deposit Accounts; Documents; General Intangibles, including Intellectual Property and Payment Intangibles; Fixtures; Goods, Inventory and Equipment; Instruments; Investment Property; Letter-of-Credit Rights; Supporting Obligations; the Acquired Assets; any collateral security granted to Lender

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under any other agreement or document executed or delivered by any Borrower (including assignments of life insurance policies); and all accessions to, substitutions for, and all replacements, Products and cash and non-cash Proceeds of any of the foregoing, including Proceeds of insurance and unearned insurance premiums and claims against any Person for loss, damage, or destruction of any property.

“Collateral Access Agreement” means a written agreement between Lender and the owner of any premises where Collateral is located (including all leased locations) on terms acceptable to Lender in its Discretion, providing for, among other things, a waiver of Liens on the subject Collateral and access for Lender to, and if applicable, the right to occupy, the premises in connection with liquidating Collateral.

“Collections” means payments (including credit-card payments) in respect to Collateral or any Proceeds thereof (including those received directly or indirectly by a Loan Party), whether in cash, by check, draft, wire transfer, ACH, or other electronic methods.

“Consolidated” when used in connection with operating results or financial statements, means the consolidated operating results or financial statements of a Person and all of its Subsidiaries.

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

“Daily Balance” means, with respect to each day during the term of this Agreement, the amount of Revolving Loans outstanding at the end of the day plus the undrawn face-amount of all Letters of Credit outstanding at the end of the day.

“Debt” means, with respect to a Borrower, without duplication, at the date of determination (a) all indebtedness for borrowed money, (b) all obligations for the deferred purchase price of property or services, (c) all obligations evidenced by notes, bonds, debentures, or other similar instruments, (d) all obligations created or arising under any conditional sale or other title retention agreement with respect to property acquired (whether or not the rights and remedies of the seller or lender under the agreement are limited to repossession or sale of property), (e) all obligations as lessee under leases that have been or should be, in accordance with GAAP, recorded as Capital Leases, (f) all obligations, contingent or otherwise, under acceptance, letter of credit, and similar facilities, (g) all obligations to purchase, redeem, retire, defease, or otherwise acquire for value any Equity Interests, (h) all net financial obligations in respect of Hedge Arrangements and all financial obligations under any similar contract, (i) all contingent obligations, (j) all Debt referred to in clauses (a) through (i) above secured by (or for which the holder of the Debt has an existing right, contingent or otherwise, to be secured by) any encumbrance on property (including accounts and contract rights), even though a Borrower has not assumed or become liable for the Debt, and (k) any other obligation arising under arrangements or agreements that, in substance, provide financing to a Borrower.

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"Default" means an event, act, fact, or occurrence, which with the passage of time or giving of notice, or both, would constitute an Event of Default.

"DeoGratias" is defined in the preamble of this Agreement.

"Depreciation & Amortization Expense" means for any period, depreciation, amortization, depletion, and other like reductions to income for the period not involving any outlay of cash, determined in accordance with GAAP.

"Designated Accounts" is defined in Section 7.10.

"Designated Person" means any Person subject to Sanctions or a Person named, identified, or described on any blocked persons list, designated nationals list, denied persons list, entity list, debarred party list, unverified list, or other list of individuals or entities with whom U.S. Persons may not conduct business, including, without limitation, lists published or maintained by the OFAC, United States Department of Commerce, or the United States Department of State.

"Dilution" means the aggregate amount of credits, returned goods, adjustments, deductions, setoffs, and recoupments granted by Borrowers or taken by Account Debtors in any period of time divided by the aggregate amount of the Borrowers' sales during the period.

"Disbursement Account" is defined in Section 7.10.

"Discretion" means Lender's sole and absolute discretion, without any limitations or conditions. The burden of establishing that Lender did not act in its Discretion is on the Loan Parties.

"Dollars" or "\$" means lawful money of the United States of America.

"Early Termination Premium" is defined in Section 3.8.

"EBITDA" means, for any applicable period, the following amount determined in accordance with GAAP on a Consolidated basis:

- (a) Net Income; plus
- (b) the sum of (without duplication):
  - (i) Interest Expense;
  - (ii) Income Tax Expense; and
  - (iii) Depreciation & Amortization Expense.

"Eligible Accounts" means each Borrower's Accounts, including, without limitation, Acquisition Accounts and Post-Acquisition Accounts, listed on Borrowing Base Certificates delivered to Lender and that Lender, in its Discretion, determines to be an Eligible Account.

## EXECUTION VERSION

Without limiting the generality of the immediately preceding sentence, no Account may be an Eligible Account unless it meets all of the following minimum requirements:

- (a) The Account is valued at its face amount and represents a complete, bona fide transaction for Eligible Inventory sold, delivered, and accepted by the Account Debtor (but excluding any amounts in the nature of a service charge added to the amount due on an invoice because the invoice has not been paid when due) that requires no further act under any circumstances on the part of a Borrower or any other Person to make the Account payable by the Account Debtor, and the Account arises from an arm's-length transaction in the ordinary course of a Borrower's business between the Borrower and an Account Debtor that is not an Affiliate, partner, officer, or employee of a Loan Party, or a member of the family of any partner, officer, or employee of a Loan Party.
- (b) The Account is not unpaid 90 or more days after the original invoice date.
- (c) If the Account arises from the sale of Inventory, the Inventory was shipped or delivered or provided to the Account Debtor on a final sale or lease basis and not on a bill and hold sale basis, a consignment sale basis, a guaranteed sale basis, a sale or return basis, or on the basis of any other similar understanding, and no part of the Inventory has been returned or rejected.
- (d) The Account is not evidenced by an instrument of any kind.
- (e) The Account Debtor with respect to the Account (i) is not insolvent, (ii) is not the subject of any bankruptcy or insolvency proceedings of any kind or of any other proceeding or action, threatened or pending, that might have a materially adverse effect on its business, and (iii) is not, in Lender's Discretion, deemed ineligible for credit for other reasons (including, without limitation, unsatisfactory past experience of a Borrower or Lender with the Account Debtor).
- (f) The Account Debtor is located in the United States.
- (g) The Account Debter is located in any Canadian province other than Quebec and such Canadian account(s) is sufficiently insured (in Lender's sole discretion).
- (h) (i) The Account Debtor is not the government of, or a department, agency or instrumentality of, the United States of America, or (ii) if the Account Debtor is an entity mentioned in the preceding clause, the Federal Assignment of Claims Act (or applicable similar legislation applicable to any other government, department, agency, or instrumentality) has been fully complied with so as to validly perfect Lender's first-priority security interest to Lender's satisfaction.



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- (i) The Account is a valid, legally-enforceable obligation of the Account Debtor and is not subject to any dispute, condition, contingency, setoff, recoupment, reduction, claim for credit, allowance, adjustment, counterclaim, or defense on the part of the Account Debtor and no fact exists that may provide a basis for any of the foregoing in the present or future (collectively, a "Setoff").
- (j) The Account is subject to a first-priority security interest in Lender's favor and is not subject to any other Lien whatsoever.
- (k) The Account is evidenced by an invoice, contract, or other documentation in form acceptable to Lender and arises from a contract, purchase order, lease, or release that is satisfactory in form and substance to Lender.
- (l) The applicable Borrower has observed and complied with (i) all laws of the United States of America (including the Fair Labor Standards Act) and (ii) all laws of the state in which the Account Debtor or the Account is located which, if not observed and complied with, would deny that Borrower access to the courts of the state.
- (m) No representation or warranty contained in this Agreement or any other agreement between any Borrower and Lender or in any Borrowing Base Certificate with respect to the Account has been breached in any respect.
- (n) The Account is not subject to any provision prohibiting its assignment.
- (o) The Account does not represent any manufacturer's or supplier's credits, discounts, incentive plans, or other similar arrangements entitling a Borrower to discounts on future purchases.
- (p) Except for Permitted Liens, the Eligible Inventory giving rise to the Account was not, at the time of sale thereof subject to any Lien.
- (q) The Account is payable in Dollars.

In addition to the foregoing requirements:

- (i) Accounts of any Account Debtor that are otherwise eligible are reduced to the extent of any accounts payable (including, without limitation, Lender's good faith estimate of any contingent liabilities) by any Borrower to the Account Debtor ("Contras") (provided that Lender in its Discretion may determine that none of the Accounts are Eligible Accounts if aggregate Contras and Setoffs represent 10% or more of the total amount owing to any Borrower from the Account Debtor).

## EXECUTION VERSION

- (ii) Accounts of any Account Debtor that are otherwise eligible are reduced to the extent of any accounts payable representing a retainage or holdback by the Account Debtor.
- (iii) All Accounts owing by a given Account Debtor are ineligible if more than 10% of the total Accounts owing by that Account Debtor (or its Affiliates) are ineligible.
- (iv) Accounts owing by a single Account Debtor (or its Affiliates) that exceed 25% of any Borrower's total Accounts are ineligible.
- (v) Any Account that is at any time an Eligible Account and that later does not meet any of the requirements set forth above immediately ceases to be an Eligible Account and must be removed from the Borrowing Base immediately.

Notwithstanding the foregoing, the Excluded Assets are not, nor will they ever be Eligible Accounts.

"Eligible Inventory" means that portion of each Borrower's Inventory, including, without limitation, Acquisition Inventory and Post-Acquisition Inventory, consisting of home décor that is listed on a Borrowing Base Certificate delivered to Lender in accordance with this Agreement, and that Lender, in its Discretion, determines to be Eligible Inventory. Without limiting the generality of the immediately preceding sentence, Inventory may not be Eligible Inventory unless it meets all the following minimum requirements:

- (a) The Inventory has not been shipped, delivered, provided to, purchased, or sold by a Borrower on a bill and hold, consignment sale, guaranteed sale, or sale or return basis, or any other similar basis or understanding. No Account exists with respect to the Inventory.
- (b) The Inventory has not been billed to a customer on a "progress billing", "pre-billing", or similar basis before shipment to the customer.
- (c) The Inventory, if Post-Acquisition Inventory, is valued at the lower of (i) cost, (ii) market price, or (iii) net book value, and in all cases, on a first-in, first-out (FIFO) basis.
- (d) The Inventory, if Acquisition Inventory, is valued at cost (based on Ohio Wholesale, Inc.'s original cost to purchase such Inventory), on a first-in, first-out (FIFO) basis.
- (e) The Inventory is in a Borrower's possession, or if the Inventory is being stored or processed and is not located on premises owned by a Borrower, the landlord or owner has executed an acceptable Collateral Access Agreement.

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- (f) The Inventory is not subject to any royalty, copyright, trademark, trade name, or licensing arrangement, or any law, rule, or regulation that could limit or impair Lender's ability to exercise its rights with respect to the Inventory.
- (g) The Inventory is not packaging, labels, or supplies.
- (h) The Inventory meets all standards imposed by any governmental or agency, department, or division having regulatory authority over the Inventory or its use or sale including, without limitation, standards set forth in the Fair Labor Standards Act.
- (i) No representation or warranty in this Agreement, in any other Loan Document, or in any Borrowing Base Certificate with respect to Inventory has been breached.
- (j) The Inventory is not obsolete or slow moving (in excess of a 12-month supply based on historic usage or sales), is of good and merchantable quality, and is readily salable in the ordinary course of a Borrower's business.
- (k) The Inventory is subject to a first-priority Lien in Lender's favor and, except for Permitted Liens, is not subject to any other Lien.

Any Inventory that is at any time Eligible Inventory and that later does not meet any of the requirements set forth above ceases to be Eligible Inventory immediately and must be removed from the Borrowing Base immediately.

"Environmental Laws" means the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, the Resource Conservation and Recovery Act of 1976, the Hazardous Materials Transportation Act, the Toxic Substances Control Act, the regulations pertaining to those statutes, and any other safety, health, or environmental statutes, laws, regulations, or ordinances of the United States or of any state, county, or municipality in which any Borrower conducts its business or any of the Collateral is located.

"Equity Interests" means shares of capital stock, membership interests in a limited liability company, beneficial interests in a trust or other equity ownership interests in an entity, and any warrants, options, or other rights entitling the holder thereof to purchase or acquire any such equity interest.

"ERISA" means the Employee Retirement Income Security Act of 1974, as amended, and the regulations thereunder.

"ERISA Affiliate" means each trade or business (whether or not incorporated and whether or not foreign) that is or may hereafter become a member of a group of which a Borrower is a member and that is treated as a single employer under ERISA Section 4001(b)(1), or IRC Section 414.

## EXECUTION VERSION

“Event of Default” is defined in Section 10.

“Examination” is defined in Section 7.6.

“Excluded Assets” shall mean the personal property assets of the Borrowers specifically described in Schedule 2.1.1 hereto, being sold, immediately following the Acquisition, to Mark N. Harbarger.

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

“Expenses” means all fees and out of pocket disbursements incurred by Lender, including out-of-pocket fees of counsel and court costs, in any way arising from or in connection with this Agreement, any Loan Documents, any of the Collateral, any of the Obligations, or the business relationship between Lender and any Loan Party, including, without limitation, (a) audit fees at the per day rate provided for in Section 7.6 below; (b) all fees and expenses (including recording fees and insurance policy fees) of Lender and fees of counsel for Lender for the preparation, examination, approval, negotiation, execution, and delivery of, or the closing of any of the transactions contemplated by, this Agreement or any Loan Documents; (c) all fees and out of pocket disbursements incurred by Lender, including attorneys’ fees, in any way arising from or in connection with any action taken by Lender to monitor, advise, administer, enforce, or collect any of the Obligations under this Agreement or the other Loan Documents, whether joint, joint and several, or several, under this Agreement (or any Loan Documents), or any other existing or future document or agreement, or arising from or relating to the business relationship between Lender and any Loan Party, or otherwise securing any of the Obligations, including any actions to lift the automatic stay or to otherwise in any way monitor or participate in any Insolvency Proceeding involving a Loan Party; (d) all out-of-pocket expenses and fees (including attorneys’ fees) incurred in relation to, in connection with, in defense of, or in prosecution of any litigation instituted by a Loan Party or any third party against or involving Lender arising from, relating to, or in connection with any of the Obligations or any Loan Party’s other obligations, this Agreement (or any Loan Documents), any of the Collateral, or the business relationship between Lender and Loan Parties, or any of them, including any so called “lender liability” action, any claim and delivery or other action for possession of, or foreclosure on, any of the Collateral, post judgment enforcement of any rights or remedies including enforcement of any judgments, and prosecution of any appeals (whether discretionary or as of right and whether in connection with pre judgment or post judgment matters); (e) all costs, expenses, and fees incurred by Lender or its agents in connection with any appraisals or environmental assessments of any of the Collateral (and, subject to the terms of this Agreement, Loan Parties must fully cooperate with the appraisers and make their property available for appraisal in connection with as many

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appraisals or environmental assessments as Lender may request); (f) all fees described in Section 1 above; and (g) all costs, expenses, and fees incurred by Lender or its counsel in connection with consultants, expert witnesses, or other professionals retained by Lender and/or its counsel in order to assist, advise, and/or give testimony with respect to any matter relating to this Agreement or any Loan Documents, the Collateral or the business relationship between Lender on the one hand and any one or more of the Loan Parties on the other hand.

“Fixed Charge Coverage Ratio” means, for any Measurement Period, the ratio of:

(a) EBITDA plus (i) losses on sales of assets or extraordinary items, plus (ii) any fees and expenses made by Borrowers pursuant to the Aged Accounts Receivable Agreement; minus (iii) gains on sales of assets, minus (iv) extraordinary income or gains, minus (v) Capital Expenditures (excluding, however, Capital Expenditures that were specifically funded by Debt (including a Capital Lease), other than a Revolving Loan), minus (vi) Income Tax Expense, minus (vii) dividends and distributions, minus (viii) loans, advances, or investments in or to any Person (other than loans or advances between Borrowers); to

(b) Fixed Charges.

“Fixed Charges” means the sum of the following for any Measurement Period (without duplication) on a Consolidated basis: paid principal and interest payments for any Funded Debt, scheduled principal payments for any Funded Debt (regardless of whether the payments were made during the Measurement Period, including payments owing under Capital Leases), all fees and expenses made by Borrower under the Aged Accounts Receivable Agreement, and Interest Expense.

“Flood Laws” means all applicable laws relating to policies and procedures that address requirements placed on federally regulated lenders under the National Flood Insurance Reform Act of 1994 and other Applicable Laws related thereto.

“Funded Debt” means all Debt (including Capital Leases, the deferred purchase price of property or services, all obligations to repurchase all or any portion of any property transferred or sold and all other obligations arising under arrangements or agreements that, in substance, provide financing).

“GAAP” means generally accepted accounting principles as adopted in the United States of America applied on a consistent basis.

“Guaranties” means the Limited Guaranty Agreements set forth in the Closing Checklist attached as Schedule 4.1 hereto, and any other guaranties executed by Guarantors securing the Obligations, hereafter, as the same may be amended, restated or otherwise modified from time to time.

“Guarantors” means Philip Daetwyler, Jim Varga, and each now existing or hereafter created Subsidiary of each Borrower and any other Person that guaranties any of the Obligations.

“Hedge Arrangement” means, for any period, any arrangement or transaction that is a rate swap transaction, basis swap, forward rate transaction, commodity swap, interest rate option,

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forward foreign exchange transaction, cap transaction, floor transaction, collar transaction, currency swap transaction, cross-currency rate swap transaction, currency option, or any other similar transaction (including any option with respect to any of those transactions or arrangements) designed to protect or mitigate against risks in interest, currency exchange, or commodity price fluctuations.

"Income Tax Expense" means, for any Measurement Period, the aggregate of all federal, state, and local taxes on income for the period, whether current or deferred, determined in accordance with GAAP, excluding taxes the payment of which is deferred during the period but including taxes deferred from a prior period and paid during the Measurement Period. Tax refunds received do not reduce Income Tax Expense and are not taken into account in calculating Income Tax Expense.

"Increased Tax Burden" means the additional federal, state, or local taxes assumed to be payable by a Pass-Through Owner of a Pass-Through Borrower due to its status as a Pass-Through Borrower, as evidenced and substantiated by the tax returns filed by that Pass-Through Owner, with such taxes being calculated for all Pass-Through Owners at the highest federal and state marginal rates applicable to any Pass-Through Owner and by taking into account losses previously allocated to each Pass-Through Owner, as applicable, by that Pass-Through Borrower to the extent such losses have not previously been applied to reduce the Increased Tax Burden provided that capital losses and capital loss carry forwards are taken into account only to the extent they are currently usable to offset income or gain allocated by that Pass-Through Borrower to a Pass-Through Owner and provided, further, that to the extent that any losses allocated by that Pass-Through Borrower result in a payback by a Pass-Through Owner to that Pass-Through Borrower of previous tax distributions in accordance with Section 8.5, then such losses are not taken into account for purposes of determining the Increased Tax Burden.

"Insolvency Proceeding" means any proceeding commenced by or against a Loan Party under any provision of the Bankruptcy Code, 11 U.S.C. §101 et. seq., or under any other bankruptcy or insolvency law, including assignments for the benefit of creditors, formal or informal moratoria, compositions, extensions generally with its creditors, or proceedings seeking reorganization, liquidation, arrangement, or other similar relief.

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

"Interest Expense" means, for any Measurement Period, without duplication, the aggregate amount of interest and other financing charges expensed or accrued on account of the period with respect to Funded Debt, including interest, discount and financing fees, commissions, discounts, the interest or time value of money component of costs related to factoring or securitizing receivables or monetizing inventory and other fees and charges payable with respect to letters of credit, letters of guarantee and bankers' acceptance financing, standby

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fees, the interest component of Capital Leases, and net payments (if any) under Hedge Arrangements involving interest, all as determined in accordance with GAAP.

"Inventory Reserves" means reserves established from time-to-time by Lender in its Discretion with respect to Inventory. Without limiting the generality of the foregoing, Inventory Reserves may include (but are not limited to) reserves based on the following: negative variances in test counts or cost verifications performed by Lender from time-to-time (as part of Lender's periodic Examinations or otherwise), obsolescence, slow moving inventory (in excess of a 12-month supply), or changes in Inventory composition or mix.

"ISP" is defined in Section 3.3(c).

"LC Reserves" is defined in Section 1.3.

"Lender" is defined in the preamble to this Agreement.

"Letter of Credit Exposure" means, at any time, the aggregate undrawn amount of all outstanding Letters of Credit plus the aggregate amount of all disbursements relating to Letters of Credit that have not been reimbursed by Borrowers.

"Letters of Credit" is defined in Section 3.3(a).

"LIBOR-Based Revolving Loans" means, collectively, that portion of the Revolving Loans on which interest accrues based on the LIBOR Rate, each portion individually a "LIBOR-Based Revolving Loan."

"LIBOR Interest Period" means one month.

"LIBOR Rate" means for any LIBOR-Based Revolving Loan for the then current LIBOR Interest Period, the interest rate per annum determined by Lender by dividing (a) the rate which appears on the Bloomberg Page BBAMI (or on such other substitute Bloomberg page that displays rates at which U.S. Dollar deposits are offered by leading banks in the London interbank deposit market), or the rate which is quoted by another source selected by Lender as an authorized information vendor for the purpose of displaying rates at which U.S. Dollar deposits are offered by leading banks in the London interbank deposit market (a "LIBOR Alternate Source"), at approximately 11:00 a.m., London time, two Business Days before the beginning of the applicable LIBOR Interest Period as the London interbank offered rate for U.S. Dollars for an amount comparable to such LIBOR-Based Revolving Loan and having a borrowing date and a maturity comparable to such LIBOR Interest Period (or if for any reason a Bloomberg Page BBAMI no longer exists (or any substitute page) or any LIBOR Alternate Source no longer exists, a comparable replacement rate determined by Lender at such time (which determination shall be conclusive absent manifest error)), by (b) a number equal to 1.00 minus the Reserve Percentage; provided, however, that if the LIBOR Rate determined as provided above would be less than zero, the LIBOR Rate is treated as zero for purposes of this Agreement.

Lender will adjust the LIBOR Rate with respect to any LIBOR-Based Revolving Loan that is outstanding on the effective date of any change in the Reserve Percentage as of the

## EXECUTION VERSION

effective date of the change. Lender's determination of the LIBOR Rate is conclusive absent manifest error.

"LIBOR Rate Option" is defined in Section 3.4(d).

"Lien" means any mortgage, deed of trust, pledge, hypothecation, assignment, security interest, lien (whether statutory or otherwise), charge, claim or encumbrance, or preference, priority or other security agreement or preferential arrangement held or asserted in respect of any asset of any kind or nature whatsoever including any conditional sale or other title retention agreement, any option agreement, any lease having substantially the same economic effect as any of the foregoing, and the filing of, or agreement to give, any financing statement under the UCC or comparable law of any jurisdiction.

"Loan Documents" means, collectively, this Agreement, any notes (including the Revolving Note and the Term Note), any security agreements, pledge agreements, subordination agreements, intercreditor agreements, assignments, deeds of trust, mortgages (including the Mortgages) or other encumbrances or agreements that secure or relate to the Obligations or the collateral security for the Obligations, any guaranties of the Obligations, any lock box or blocked account agreements, and any other agreements entered into between any Loan Party and Lender relating to or in connection with this Agreement, as well as each document on the Closing Checklist attached as Exhibit 4.1.

"Loan Party" or "Loan Parties" means, singularly or collectively, as the context may require, each Borrower, each Guarantor, each other Person who becomes a party to this Agreement or who grants Lender a Lien on any Collateral to secure any of the Obligations, and each of their respective successors and assigns.

"Loan Party Representative" means DeoGratias.

"Loans" means the Revolving Loans, the Term Loan, and any other loans or advances made by Lender to any one or more of Borrowers.

"Margin Stock" means "margin stock" as defined in Regulations U and X of the Board of Governors of the Federal Reserve System as from time-to-time in effect or "margin security", "marginable OTC stock" or "foreign margin stock" within the meaning of Regulation T or X of the Board of Governors of the Federal Reserve System as from time-to-time in effect.

"Material Adverse Change" means (a) a material adverse change in the Borrowers' business, operations, results of operations, assets, liabilities, or financial condition taken as a whole, including, without limitation, a material adverse change in any of their business, operations, results of operations, assets, or liabilities since the most recent financial statements provided to Lender, (b) the material impairment of a Loan Party's ability to perform its obligations under the Loan Documents to which it is a party or of Lender to enforce the Obligations or realize upon any Collateral, (c) a material impairment of the Collateral, or (d) any impairment of the priority of Lender's Liens with respect to the Collateral.

"Maximum Borrowing Amount" means, at any time, an amount equal to the lesser of (a) the Revolving Commitment minus (1) any Availability Reserves that Lender determines in its



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Discretion should be reserved against the Revolving Commitment (2) any reserves that Lender establishes with respect to cash management products (including with respect to ACH activity) and (b) the Borrowing Base.

"Measurement Period" means a trailing twelve month period ending on the last day of each calendar month; provided, however, for purposes of determining compliance with the Fixed Charge Coverage Ratio, for calendar months ending prior to October 1, 2017, (i) the first Fixed Charge Coverage Ratio will be measured December 31, 2016, for the three month period then ended (the "Initial Measurement Period"); and (ii) thereafter through September 30, 2017 the Fixed Charge Coverage Ratio will be measured for the period that includes the Initial Measurement Period and all months completed through the date of measurement. After September 30, 2017, the trailing twelve month Measurement Period will apply.

"Mortgages" means each mortgage, assignment of rents, deed of trust or other agreement that conveys or evidences a Lien to Lender, for its benefit, to secure any of the Obligations.

"Multiemployer Plan" means a multiemployer plan as defined in ERISA Sections 3(37) or 4001(a)(3) or IRC Section 414(f) that covers employees of Borrowers or any ERISA Affiliate.

"Negotiable Collateral" means all of each Borrower's present and future letters of credit (issued in favor of a Borrower), notes, drafts, instruments, certificated and uncertificated securities, investment property, documents, leases and Chattel Paper, and Business Records relating to any of the foregoing.

"Neofill" means Northeast Ohio Fulfillment Center, LLC, an Ohio limited liability company.

"Neofill Assets" means that personal property previously owned by Neofill and conveyed to WD by either James Varga or Neofill, as more specifically described on Schedule 2.1.2 hereto.

"Neofill Domain Name" means the internet domain name "www.HalfOffDeals.com," and all related rights, title and interest therein.

"Net Income" means, for any period, Borrowers' net income for the period, as determined in accordance with GAAP.

"Net Orderly Liquidation Value" means the cash proceeds of Inventory, which could be obtained in an orderly liquidation (net of all liquidation expenses, costs of sale, operating expenses and retrieval and related costs), as determined pursuant to the most recent third-party appraisal of such Inventory delivered to Lender by an appraiser selected or approved by Lender.

"Notes" means the Revolving Note, the Term Note, and all other notes that evidence any of the Obligations.

"Obligations" means all Loans, advances, debts, liabilities (including all amounts charged to Borrowers' loan account under any agreement authorizing Lender to charge the loan account), obligations, fees, lease payments, guaranties, reimbursement obligations in respect of Letters of

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Credit, covenants, and duties owing by Loan Parties to Lender of any kind and description for the payment of money or otherwise (whether under or evidenced by any Loan Document or any other existing or future agreement between Lender and any one or more of the Loan Parties), whether direct or indirect, absolute or contingent, due or to become due, now existing or hereafter arising, including any debt, liability or obligation owing from any one or more of the Loan Parties to others that Lender may obtain by assignment or otherwise, and all interest thereon, including any interest that, but for the provisions of the Bankruptcy Code, would have accrued, and all Expenses that Loan Parties are required to pay or reimburse under the Loan Documents, by law, or otherwise. Obligations exclude, however, any Excluded Swap Obligation.

“OFAC” is defined in Section 7.7.

“Operating Account” means either of the following two accounts: (a) Account Number 1301011902, maintained by WD with Lender; and (b) Account Number 1301011928, maintained by DeoGratias with Lender.

“Operating Lease” means any lease for real or personal property that is not a Capital Lease.

“Other Bank Accounts” is defined in Section 7.10.

“Overadvance” means, if at any time and for any reason, the Revolving Exposure exceeds the Maximum Borrowing Amount.

“Pass-Through Borrowers” means all Borrowers that are a limited liability company, a subchapter S corporation, or any other entity that is disregarded for federal and state income tax purposes for so long as that Borrower has elected to be treated as a pass through entity for federal and state income tax purposes.

“Patriot Act” means the USA Patriot Act, Title III of Public Law 107-56 (signed into law October 26, 2001), as amended.

“Permitted Dividends” means dividends and distributions that meet each of the following conditions: (a) they are allowed under all applicable law; (b) no Event of Default or Default exists or would occur after giving pro forma effect to the dividend or distribution; and (c) they are made by a Pass-Through Borrower to its members in an aggregate amount equal to solely the Increased Tax Burden of its members (each, a “Pass-Through Owner”).

“Permitted Indebtedness” means: (a) Indebtedness disclosed in the financial statements presented to Lender to obtain the funds provided hereby; (b) Indebtedness to Lender; (c) unsecured current indebtedness (other than for borrowed money) incurred in the ordinary course of business; and (d) such other indebtedness, including, without limitation, Subordinated Indebtedness, as more specifically set forth on Schedule 2.1.3 and Schedule 2.1.5 hereto, the terms and conditions of which shall have been approved in writing by Lender, such approval may be withheld in Lender’s sole discretion, and which shall not be secured by a lien against the Collateral, or any portion thereof.

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"Permitted Liens" means:

- (a) Liens for taxes, assessments, or governmental charges, and Liens incident to construction, which are not delinquent or are being contested in good faith by the applicable Loan Party by appropriate proceedings, that must prevent foreclosure of the Liens, and against which adequate reserves have been provided, and upon Lender's demand with adequate security being posted with Lender.
- (b) Liens or deposits in connection with workers' compensation or other insurance or to secure customs duties, public, or statutory obligations in lieu of surety, stay or appeal bonds, or to secure performance of contracts or bids (other than contracts for the payment of money borrowed), or deposits required by law or governmental regulations or by any court order, decree, judgment, or rule as a condition to the transaction of business or the exercise of any right, privilege, or license; or other Liens or deposits of a like nature made in the ordinary course of business.
- (c) Liens securing new purchase-money financing or Capital Lease obligations in an aggregate amount not to exceed \$50,000 per fiscal year, without the prior written consent of Lender.
- (d) Liens granted to Lender.
- (e) Liens identified on Schedule 2.1.4.

"Permitted Note Payments" means principal payments on the promissory note listed on Schedule 8.2 hereto; provided that Permitted Note Payments are only permitted if: (i) before and after giving effect to such payments (1) the representations and warranties contained in this Agreement are true and correct in all material respects, except to the extent that such representations and warranties specifically refer to an earlier date, in which case they are true and correct as of such earlier date, (2) no Event of Default exists or would result from such payment, and (3) the Borrowers' Undrawn Availability is at least \$100,000.00.

"Person" means any individual, sole proprietorship, partnership, corporation, business trust, joint stock company, trust, unincorporated organization, association, limited liability company, institution, public benefit corporation, joint venture, entity, or governmental body.

"Plan" means any plan described in ERISA Section 3(2) maintained for employees of Borrowers or any ERISA Affiliate, other than a Multiemployer Plan.

"Post-Acquisition Accounts" means Accounts generated by Borrower in the ordinary course, and not acquired as part of the Acquisition.

"Post-Acquisition Inventory" means Inventory purchased by Borrower in the ordinary course, outside of and after the Acquisition.

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“Prime-Based Loans” means on or more of the Prime-Based Revolving Loans, or the Prime-Based Term Loan.

“Prime-Based Revolving Loans” means the portion of the Revolving Loans on which interest accrues based on the Prime Rate.

“Prime-Based Term Loan” means the portion of the Term Loan on which interest accrues based on the Prime Rate.

“Prime Rate” means the “prime rate” as that rate of interest reported by *The Wall Street Journal* from time-to-time (which prime rate is not necessarily the lowest rate offered by the Lender to other borrowers). If at any time the “prime rate” is no longer reported by *The Wall Street Journal*, the Prime Rate will be the base or prime commercial lending rate established by the Lender or its successor (which is not intended to be Lender’s lowest or most favorable rate in effect at any time) in effect from time-to-time.

“Regulation T”, “Regulation U”, and “Regulation X” mean Regulation T, Regulation U and Regulation X, as applicable, of the Board of Governors of the Federal Reserve System as from time-to-time in effect and any successor or other regulation or official interpretation of said Board of Governors relating to the extension of credit by banks for the purpose of purchasing or carrying margin stocks applicable to member banks of the Federal Reserve System.

“Reportable Event” means a “reportable event” as defined and applied in connection with ERISA.

“Reserve Percentage” means as of any day the maximum effective percentage in effect on such day as prescribed by the Board of Governors of the Federal Reserve System (or any successor) for determining the reserve requirements (including supplemental, marginal and emergency reserve requirements) with respect to eurocurrency funding.

“Revolving Commitment” is defined in Section 1.1.

“Revolving Credit” is defined in Section 1.1.

“Revolving Exposure” means, at any time, an amount equal to the sum of the outstanding principal amount of Revolving Loans plus the Letter of Credit Exposure.

“Revolving Loans” means the Loans made under the Revolving Credit.

“Revolving Note” is defined in Section 1.1.

“Sanctioned Country” means a country or territory that is at any time subject to Sanctions.

“Sanctions” means:

- (a) Economic or financial sanctions or trade embargoes imposed, administered, or enforced from time-to-time by (i) the U.S. Government

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and administered by OFAC, (ii) the United Nations Security Council, (iii) the European Union, or (iv) Her Majesty's Treasury of the United Kingdom.

- (b) Economic or financial sanctions imposed, administered, or enforced from time-to-time by the U.S. State Department, the U.S. Department of Commerce, or the U.S. Department of Treasury.

"Subordinated Indebtedness" means, at any date, all unsecured subordinated Debt of any Borrower, the terms and manner (including, without limitation, the terms and manner with respect to subordination) of which are satisfactory to Lender in its sole discretion and approved in writing by Lender, and which is subordinate to the Obligations, including, without limitation, that Debt set forth on Schedule 2.1.5 hereto.

"Subsidiary" means, with respect to any Person, a corporation or other entity that is Controlled by that Person.

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

"Term" is defined in Section 1.9.

"Term Loan" is defined in Section 1.2.

"Term Note" is defined in Section 1.2.

"UCC" means the Uniform Commercial Code as adopted in Ohio, as amended from time to time.

"UFCA" is defined in Section 9.5(d).

"UFTA" is defined in Section 9.5(d).

"Undrawn Availability" at a particular date means an amount equal to the Maximum Borrowing Amount minus the following: (1) the Revolving Exposure; and (2) all amounts due and owing to any Borrower's trade creditors that are outstanding 60 days or more past their due date.

"Unused Line Fees" is defined in Section 1.6.

"Value" or "Values" means: (a) for Post-Acquisition Inventory the lower of (i) cost, (ii) market price, or (iii) net book value, and in all cases, on a first-in, first-out (FIFO) basis; and (b) for Acquisition Inventory, the cost (based on Ohio Wholesale, Inc.'s original cost to purchase such Inventory), on a first-in, first-out (FIFO) basis.

"WD" is defined in the preamble to this Agreement.

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2.2 **UCC Terms.** All terms defined in the UCC and used in this Agreement have the meanings given in the UCC unless otherwise defined in this Agreement, including "Account", "Account Debtor", "Chattel Paper", "Commercial Tort Claim", "Deposit Account", "Document", "Equipment", "Fixture", "General Intangible", "Goods", "Instrument", "Inventory", "Investment Property", "Letter-of-Credit Rights", "money", "Payment Intangibles", "Proceeds", "Product", and "Supporting Obligation." To the extent the definition of any category or type of Collateral is expanded by any amendment, modification, or revision to the UCC, the expanded definition applies automatically as of the effective date of the amendment, modification, or revision.

2.3 **Certain Rules of Construction.** For purposes of this Agreement:

- (a) **Certain References.** The words "herein," "hereof" and "hereunder," and words of similar import, refer to this Agreement as a whole and not to any particular provision of this Agreement, and references to an Article, Section, Paragraph, Schedule or Exhibit, and similar references, are to Articles, Sections, or Paragraphs of, or Exhibits or Schedules to, this Agreement unless otherwise specified.
- (b) **General Rules.** Unless the context otherwise requires: (i) the singular includes the plural, and vice versa; (ii) all pronouns and any variations thereof refer to the masculine, feminine or neuter, as the identity of the Person or Persons may require; (iii) all definitions and references to an agreement, instrument or document means such agreement, instrument or document together with all exhibits and schedules thereto and any and all amendments, restatements, supplements, replacements, or modifications thereto as the same may be in effect at the time such definition or reference is applicable for any purpose; (iv) all references to any party include that party's successors and permitted assigns; (v) "include", "includes", and "including" are to be treated as if followed by "without limitation" whether or not they are followed by these words or words with a similar meaning; (vi) text that is shown in **bold** or IN ALL CAPITAL LETTERS are treated as conspicuous; and (vii) the words "may not" or "must not" are prohibitive and not permissive.
- (c) **Accounting Terms and Determinations.** Except as otherwise provided in this Agreement, all accounting terms used in this Agreement must be interpreted, all accounting determinations hereunder must be made, and all financial statements required to be delivered hereunder must be prepared in accordance with generally accepted accounting principles. If any Loan Party adopts a change in accounting principles (including any changes in generally accepted accounting principles) from those used in preparing such Loan Party's financial statements or that affects in any material respect (as determined by Lender) the computation of or compliance with any of the provisions of this Agreement, then, unless this Agreement has been amended to modify the provisions to take account of the change in accounting principles, all financial restrictions, provisions, and ratios must

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continue to be computed based upon accounting principles in effect before adoption of the change.

- (d) Uniform Commercial Code. All terms contained in this Agreement but not otherwise defined have, when the context so indicates, the meanings provided for by the UCC to the extent the terms are used or defined in the UCC.
- (e) Headings. The headings of the various subdivisions of this Agreement are for convenience of reference only and do not in any way modify or affect the interpretation of any of the terms or provisions of this Agreement.
- (f) Calendar Days. Unless a reference to "days" in this Agreement or any other Loan Documents specifically includes a reference to Business Days or business days, the reference is intended to be to calendar days.
- (g) Time. All the references to time in the Loan Documents are to the time in Novi, Michigan.

### **3. REVOLVING CREDIT, TERM LOAN, LETTERS OF CREDIT, INTEREST AND PAYMENTS**

#### **3.1 Revolving Credit**

- (a) From time-to-time before the expiration of the Term, if no Default or Event of Default exists, and subject to the terms and conditions set forth in this Agreement, Lender will, in its Discretion, make Revolving Loans to the Borrowers and issue Letters of Credit for the Borrowers' account in amounts the Borrowers request, provided that the Revolving Exposure may not exceed the Maximum Borrowing Amount.
- (b) Loan Party Representative may request Revolving Loans by submitting a signed, completed Borrowing Base Certificate to Lender, no later than 12:00 p.m. on the Business Day of the proposed Revolving Loan advance. Subject to the terms and conditions of this Agreement, Lender will make the proceeds of the requested Revolving Loan advance available to the Borrowers on the day requested by transferring funds to the Borrowers' Operating Account or as otherwise instructed by the Borrowers.
- (c) While the Revolving Loans are evidenced by a promissory note in the amount of the Revolving Commitment, a copy of Lender's books and records related to the Revolving Loans is *prima facie* evidence of the outstanding amount of Revolving Loans absent manifest error. The Revolving Loans are due and payable upon the earlier of the occurrence of an Event of Default or the expiration of the Term.
- (d) If an Overadvance exists, the Borrowers must immediately make a principal reduction payment(s) of the excess to Lender as required to

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reduce the outstanding balance of the Revolving Loans such that no Overadvance exists.

### 3.2 Term Loan

- (a) Subject to satisfaction of any conditions precedent to the effectiveness of this Agreement, Lender will make the Term Loan to the Borrowers, jointly and severally. Interest on the Term Loan is payable according to the terms of this Agreement. Principal on the Term Loan is payable in twenty-three (23) equal-monthly installments of \$4,166.67, plus interest, on the first day of each month, beginning on the first day of the first month after the Closing Date, with a final balloon payment of all principal and interest on the last day of the Term. Payments or prepayments of the Term Loan may not be re-borrowed.
- (b) The due date of the Term Loan may be accelerated as provided in this Agreement.

### 3.3 Letters of Credit

- (a) Subject to the terms and conditions of this Agreement, Lender will issue standby letters of credit ("Letters of Credit") on behalf of the Borrowers. Lender, however, is not be required to issue or cause to be issued any Letters of Credit to the extent that the face amount of the Letter of Credit would then cause the Revolving Exposure to exceed the Maximum Borrowing Amount. The maximum aggregate amount of the undrawn face amount of Letters of Credit outstanding may not exceed \$750,000.00 in the aggregate at any time. All disbursements or payments related to Letters of Credit will be charged to the loan account as a LIBOR-Based Revolving Loan.
- (b) Loan Party Representative may request that Lender issue a Letter of Credit by delivering to Lender a letter of credit application on a form provided by, and completed to the satisfaction of, Lender together with any other documents and information as Lender requests no later than 12:00 p.m. at least five Business Days before the date of the proposed issuance.
- (c) Each Letter of Credit will, among other things, (i) provide for the payment of sight drafts or other forms of written demand for payment or, acceptances of issued drafts when presented for honor thereunder in accordance with the terms thereof and when accompanied by the documents described therein and (ii) have an expiry date not later than the earlier of one year from the date of issuance or five Business Days before the expiration of the Term. Each Letter of Credit is subject to the International Standby Practices (1998), *International Chamber of Commerce Publication 590* and any amendments or revisions thereof adhered to by Lender (the "ISP"). Each Letter of Credit is governed, to



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the extent not inconsistent with the ISP, by the laws of the State of Michigan or Ohio (as selected by Lender).

- (d) Lender has Discretion whether to accept any draft made against any Letter of Credit.
- (e) In connection with the issuance of any Letter of Credit, Loan Parties indemnify, save, and hold Lender harmless from any loss, cost, expense, or liability, including payments made by Lender and expenses and attorneys' fees incurred by Lender arising out of, or in connection with, any Letter of Credit to be issued or created for any Borrower. The Borrowers are bound by the Lender's regulations and good faith interpretations of any Letter of Credit, even though that interpretation may be different from the Borrowers' interpretation; and neither Lender nor any of its correspondents are liable for any error, negligence, or mistakes, whether of omission or commission, in following any Borrower's instructions or those contained in any Letter of Credit or of any modifications, amendments, or supplements thereto or in issuing or paying any Letter of Credit except for Lender's or any correspondent's gross negligence or willful misconduct.
- (f) In connection with all Letters of Credit issued by Lender, each Borrower appoints Lender, or its designee, as its attorney, with full power and authority when an Event of Default occurs, (i) to sign and/or endorse the applicable Borrower's name upon any warehouse or other receipts, letter of credit applications, and acceptances; (ii) to sign the applicable Borrower's name on bills of lading; (iii) to clear Inventory through the United States of America Customs Department ("Customs") in the name of the applicable Borrower or Issuer or Issuer's designee, and to sign and deliver to Customs officials powers of attorney in the name of the Borrower for that purpose; and (iv) to complete in the applicable Borrower's name or Lender's, or Lender's designee, any order, sale or transaction, obtain the necessary documents in connection therewith, and collect the proceeds thereof. Neither Lender nor its attorneys are liable for any acts or omissions or for any error of judgment or mistakes of fact or law except for the issuer's or its attorney's gross negligence or willful misconduct. This power, being coupled with an interest, is irrevocable as long as any Letters of Credit remain outstanding.
- (g) Immediately upon Lender's request, (i) after the occurrence of an Event of Default, or (ii) if any Letter of Credit remains outstanding after five Business Days before the expiration of the Term, in each such case, the Borrowers must deposit and maintain in an account with Lender in cash, as cash collateral, an amount equal to 105% of the amount of outstanding Letters of Credit. In each case, the Borrowers irrevocably authorize Lender, in its Discretion, on the Borrowers' behalf and in any Borrower's name, to open such an account and to make and maintain deposits in such

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account or in an account opened by the Borrowers, in the amounts required to be made by the Borrowers, out of the Proceeds of Accounts or other Collateral, from a Revolving Loan advance, or out of any other funds of the Borrowers coming into any Lender's possession at any time. Lender may in its Discretion invest the cash collateral in the short-term money-market items as to which Lender and Loan Party Representative mutually agree and the net return on such investments, if any, will be credited to such account and constitute additional cash collateral. The Borrowers may not withdraw amounts credited to any cash collateral account except upon payment and performance in full of all Obligations and termination of this Agreement.

### 3.4 Interest.

- (a) Interest Rates. Subject to Section 3.4(b), the aggregate outstanding amount of all Obligations that are Revolving Loans bear interest at the Prime Rate plus the Applicable Margin or at the LIBOR Rate plus the Applicable Margin per annum, and (2) the Term Loan bears interest at the Prime Rate plus the Applicable Margin per annum. Interest charges are computed on the actual principal amount of Loans outstanding during the calendar month. Interest on the Loans (including Libor-Based Revolving Loans) is payable in arrears on the first day of each calendar month.
- (b) Default Interest. When an Event of Default exists, (i) each of the Obligations bears interest at 3% per annum above the otherwise applicable interest rate; and (ii) the Letter of Credit fee increases by 3% per annum when an Event of Default exists and without constituting a waiver of the Event of Default. Lender is entitled to receive a higher interest rate when an Event of Default exists to partly compensate Lender for its increased costs and risk due to the default. This higher interest rate does not waive any Event of Default or modify Lender's rights due to the Event of Default.
- (c) Computation. If the Prime Rate changes, the interest rate on Prime-Based Loans is automatically and immediately increased or decreased by an amount equal to the change; the interest rates on LIBOR-Based Revolving Loans change as provided in Section 3.4(d). All interest and fees chargeable under the Loan Documents is computed on the basis of a 360 day year for the actual number of days elapsed. For the purpose of calculating interest, Borrowers will be charged one day of "float" which means that the receipt by Lender of any check or other item of payment (including EFT or wire transfers of Collections) will be treated as occurring one day after the date Lender receives the item of payment; however, the float period does not affect when the payment was received by Lender for Borrowing Base purposes.
- (d) LIBOR Rate Option.

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- (i) If no Default or Event of Default exists, the Borrowers may elect to have the Revolving Loans bear interest based on the LIBOR Rate plus the Applicable Margin ("LIBOR Rate Option"). If the LIBOR Rate Option is elected, the portion of the Revolving Loan that bears interest using the LIBOR Rate must be at least \$500,000. The Borrowers may not have more than one LIBOR-Based Revolving Loans outstanding at any time for all Loans in the aggregate.
- (ii) Loan Party Representative may elect the LIBOR Rate Option by giving Lender at least three Business Days' written notice (in the form of Exhibit 3.4) of each requested LIBOR-Based Revolving Loan such that the Interest Period will begin on the first day of a month. If Loan Party Representative does not timely elect the LIBOR Rate Option such that the Interest Period will begin on the first day of a month, that Loan will be a Prime-Based Loan that accrues interest at the applicable Prime Rate plus the Applicable Margin.
- (iii) Loan Party Representative may, by written notice to Lender, (A) request that Lender furnish a statement setting forth the basis for adjusting the LIBOR Rate and the method for determining the amount of the adjustment; or (B) convert the LIBOR-Based Revolving Loans with respect to which the adjustment is made to Prime-Based Loans, subject to the requirements of this Agreement.
- (iv) If Loan Party Representative requests the LIBOR Rate Option in accordance with this Agreement and Lender reasonably determines that loans equal to the amount of the principal of the requested LIBOR-Based Revolving Loan for the LIBOR Interest Period specified are unavailable, impractical, or unlawful, or that the LIBOR Rate will not adequately and fairly reflect the cost of funds, of making or maintaining the principal amount of the requested LIBOR-Based Revolving Loan specified by Loan Party Representative, or that by reason of circumstances affecting loans, adequate and reasonable means do not exist for ascertaining the rate based on the applicable LIBOR Rate, Lender will promptly give notice of such determination to Loan Party Representative that a LIBOR Rate is not available. A determination by Lender under this Section is *prima facie* evidence of the correctness of the fact and amount of the additional costs or unavailability. Upon that determination, (A) the Borrowers right to select, convert to, or maintain a LIBOR-Based Revolving Loan is suspended until Lender notifies Loan Party Representative that the conditions cease to exist, and (B) the Loans subject to the requested LIBOR Rate Option accrue interest as Prime-Based Loans plus the Applicable Margin.

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- (v) When an Event of Default exists, Lender may, in its Discretion and without prior notice, eliminate the LIBOR Rate Option and the availability of LIBOR-Based Revolving Loans and all LIBOR-Based Revolving Loans will convert to Prime-Based Loans, which conversion is independent of Lender's other rights under this Agreement.
- (e) Intent to Limit Charges to Maximum Lawful Rate. The interest rates payable under the Loan Documents, plus any other amounts paid in connection herewith, may not exceed the highest rate permissible under any law that a court of competent jurisdiction, in a final determination, deems applicable. Loan Parties and Lender, in executing and delivering the Loan Documents, intend to agree upon the rate or rates of interest and manner of payment stated within the Loan Documents. If, however, the rate or rates of interest or manner of payment exceeds the maximum allowable under applicable law, then, retroactive to the Closing Date, Loan Parties are and will be liable only for the payment of the maximum as allowed by law, and payments received from Loan Parties in excess of the legal maximum, whenever received, will be applied to reduce the principal balance of the Obligations to the extent of the excess.

3.5 Cross Defaults and Cross Collateralization. A Default or Event of Default under any Obligation or Loan Document is a Default or Event of Default under all Obligations and all Loan Documents. All Collateral secures all Obligations.

### 3.6 Payments.

- (a) All payments, including any prepayments, by Loan Parties on account of principal, interest, fees, or other Obligations must be made without setoff or counterclaim to Lender at the address specified on the first page of this Agreement in Dollars and in immediately available funds. If any payment under this Agreement is due on a day other than a day that is a Business Day, its due date is extended to the next Business Day, and with respect to payments of principal and interest thereon, is payable at the then-applicable rate during the extension.
- (b) Interest, Letter of Credit fees, Unused Line Fees, Expenses, principal payments on the Term Loan, and all other payments or reimbursements due under any Loan Document will be charged to the Revolving Loans on the date due as a Prime-Based Revolving Loans. If charging those items to the Revolving Loans creates an Overadvance, the Borrowers must immediately make a principal reduction payment to reduce the outstanding balance of the Revolving Loans to eliminate the Overadvance.

3.7 Crediting Payments. For the purpose of calculating Borrowing Base availability for Revolving Loans, Lender's receipt of any wire transfer or electronic funds transfer of funds, check, or other item of payment is applied the next Business Day to provisionally reduce the

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Obligations, but such receipt is not considered a payment on account unless such wire transfer or electronic funds transfer is of immediately available federal funds and is made to Lender's appropriate deposit account or unless and until any check or other item of payment is honored when presented for payment. If any check or other item of payment is not honored when presented for payment, Loan Parties are treated as having not made the payment. Any wire transfer, electronic funds transfer, check, or other item of payment received by Lender after 12:00 p.m. is treated as having been received by Lender as of the opening of business on the immediately following Business Day.

3.8 **Early Termination Premium.** If this Agreement is terminated prior to the second anniversary of the Closing Date, the Borrowers must pay Lender a termination premium (the "Early Termination Premium") equal to:

(a) 2.0% of the sum of: (a) the Revolving Commitment; plus (b) the then principal balance of the Borrowers' capital expenditure obligations, financed by Lender, if any, if this Agreement is terminated or all Obligations are paid in full before the first anniversary of the Closing Date; and

(b) 1.0% of the sum of: (a) the Revolving Commitment; plus (b) the then principal balance of the Borrowers' capital expenditure obligations, financed by Lender, if any, if this Agreement is terminated or all Obligations are paid in full on or after the first anniversary of the Closing Date, but before the second anniversary of the Closing Date.

The Early Termination Premium is also due and payable (i) in connection with any termination of this Agreement when an Event of Default occurs during the period set forth above, (ii) if any Loan Party becomes subject to an Insolvency Proceeding and this Agreement is terminated or all Obligations are paid as a result of or as part of the Insolvency Proceeding, or (iii) in connection with payment of any Obligations by any trustee, receiver, interim receiver, administrator, custodian, debtor-in-possession, or similar court appointed or legally authorized representative in any Insolvency Proceeding. The Early Termination Premium is presumed to be a reasonable estimate of the damages sustained by the Lender as a result of the early termination of this Agreement and Loan Parties agree that the amount is reasonable under the circumstances currently existing. The Early Termination Premium is part of the Obligations and is secured by the Collateral. Notwithstanding the above, no Early Termination Premium will be charged for prepayment of the Term Loan if this Agreement remains in effect following such prepayment.

3.9 **Increased Costs.** If, (a) the introduction after the Closing Date of any law, treaty, rule or regulation or any change therein after the Closing Date, (b) any change after the Closing Date in the interpretation or administration of any law, treaty, rule or regulation by any central bank or other governmental body, or (c) the compliance by Lender with any guideline, request or directive from any central bank or other governmental body (whether or not having the force of law) after the Closing Date (provided that notwithstanding anything in this Agreement to the contrary, (x) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, regulations, guidelines, interpretations, or directives thereunder or issued in connection therewith (whether or not having the force of law) and (y) all requests, rules, regulations, guidelines, interpretations, or directives promulgated by the Bank for International Settlements,

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the Basel Committee on Banking Supervision (or any successor or similar authority) or the United States or foreign regulatory authorities (whether or not having the force of law), in each case in connection with Basel III, are in each case deemed to be a change occurring after the Closing Date regardless of the date enacted, adopted, issued, promulgated, or implemented) (for purposes of this Section, the term "Lender" includes Lender and any corporation or bank controlling Lender and the office or branch where Lender (as so defined) makes or maintains any LIBOR-Based Revolving Loans):

- (a) subjects Lender to any tax of any kind whatsoever with respect to any Loan Document or change the basis of taxation of payments to Lender of principal, fees, interest, or any other amount payable under any Loan Document (except for changes in the rate of tax on Lender's overall net income by the jurisdiction in which it maintains its principal office);
- (b) imposes, modifies, or holds applicable any reserve, special deposit, assessment, or similar requirement against assets held by, or deposits in or for the account of, advances, or loans by, or other credit (including Letters of Credit) extended by, any office of Lender, including in connection with Regulation D of the Board of Governors of the Federal Reserve System; or
- (c) imposes on Lender or the London interbank offered rate market any other condition with respect to any Loan Document;

and the result of any of the foregoing is to increase the cost to Lender of making, renewing, or maintaining its Revolving Loans, the Term Loan, or Letters of Credit hereunder by an amount that Lender deems to be material or to reduce the amount of any payment (whether of principal, interest or otherwise) in respect of any of the Revolving Loans, the Term Loan, or Letters of Credit by an amount that Lender deems to be material, then, in any case the Borrowers must promptly pay Lender, upon Lender's demand, such additional amount as will compensate Lender for such additional cost or such reduction, as applicable. Lender will certify the amount of such additional cost or reduced amount to the Loan Party Representative, and such certification is presumed correct absent manifest error.

## **4. CONDITIONS OF BORROWING**

4.1 **Conditions Precedent to First Loan Advance.** Lender is not required to consummate the transactions contemplated by this Agreement or to disburse the proceeds of any of the Loans to or for the Borrowers' account on the Closing Date unless the conditions set forth in this Article 4 have been completed to Lender's satisfaction:

- (a) Loan Parties have executed and delivered, or caused to be executed and delivered, all required Loan Documents to Lender.
- (b) Each Loan Party has provided Lender with a certificate from a duly authorized representative of Loan Party: (i) attaching true and complete copies of each Loan Party's organizational documents, and certifying the same are in full force and effect and unmodified; (ii) attaching a resolution authorizing each Loan Party's execution and delivery of this Agreement

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and the other Loan Documents to which it is a party and its performance of its obligations under this Agreement and the other Loan Documents, and confirming that the resolution is in full force and effect; (iii) identifying the Loan Party's officers, members, or managers who are authorized to execute and deliver this Agreement for and on behalf of the Loan Party, and providing specimen signatures for those officers, members, or managers, as applicable; and (iv) a certificate of good standing or proof of registration from the state of the Loan Party's organization and from the state(s) in which a failure by the Loan Party to be qualified to do business could reasonably be expected to have a Material Adverse Change.

- (c) Lender has received certified copies of UCC requests for information, or a similar search report certified by a party acceptable to Lender, dated a date near to the Closing Date, listing all effective financing statements that name each Loan Party as debtor and that are filed in the jurisdictions in which filings are to be made under the Loan Documents, together with (i) copies of the financing statements, and (ii) executed UCC termination statements (Form UCC-3), if any, necessary to release all Liens and other rights of any Person in any Collateral previously granted by any Person.
- (d) Lender has received evidence satisfactory to it that the Loan Parties have obtained all insurance policies required by the Loan Documents and that those policies are in full force and effect.
- (e) The representations and warranties contained in this Agreement are true and accurate on and as of the Closing Date, the Loan Parties have performed and complied with all covenants and conditions required in this Agreement to be performed or complied with by it on or before the Closing Date, and no Default or Event of Default exists or is continuing on the Closing Date.
- (f) The Borrowers have delivered to Lender an opinion of counsel for the Borrowers and Guarantors in form and substance satisfactory to Lender.
- (g) The Borrowers have paid all out-of-pocket costs and expenses of Lender in connection with this Agreement and the closing of the transactions related to this Agreement including, without limitation, any Expenses.
- (h) The Guarantors have collectively contributed or caused to be contributed at least \$300,000 in cash equity to the Borrower, as follows: (a) at least \$200,000 in cash equity from the Guarantors; and (b) \$100,000 in completely subordinated sub-debt acceptable to Lender.
- (i) All rights, title and interest in the Neofill Assets and the Neofill Domain Name have been wholly and completely conveyed to WD, free and clear of all Liens and encumbrances.

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- (j) DeoGratias and WD have delivered or cause to be delivered current financial information and statements, in form and substance satisfactory to Lender.
- (k) Lender has received a satisfactory pre-funding asset based field examination conducted by a third-party engaged by Lender, and paid for (or reimbursed) by the Borrowers.
- (l) After giving effect to all transactions, fees, and payments to be made in connection with this Agreement and the transactions contemplated by this Agreement, the Borrowers' Undrawn Availability is at least \$500,000.00.
- (m) Lender has received other documents, searches, abstracts, and information required by Lender, including fully-executed counterparts of each document on the Closing Checklist attached as Exhibit 4.1 that require signatures as well as all other documents, instruments and conditions listed on Exhibit 4.1, or as required by Lender in order to effectuate the transactions contemplated by this Agreement and to perfect Lender's security interest in any Collateral.

4.2 **Conditions Precedent to Each Loan or Letter of Credit Issuance.** Lender is not be required to make any Loan or issue or extend any Letter of Credit unless all of the following conditions are met at or before the time the Loan is made or Letter of Credit is issued or extended:

- (a) No Default or Event of Default exists.
- (b) All of the Loan Documents are in full force and effect.
- (c) Each Loan Party's representations and warranties in this Agreement (and in the other Loan Documents) are true as of the date of each Loan or advance under this Agreement with the same effect as though the representations and warranties had been made by the applicable Loan Party at that time, unless the applicable representation or warranty is made as of a specific date, in which case the representation was true and correct as of that date.
- (d) Each Loan Party has performed and complied with all agreements and conditions contained in this Agreement, the other Loan Documents, or any agreement or other document executed thereunder and required to be performed or complied with by each of them (as of the applicable date), and no Loan Party is in default in the performance of or compliance with any of the terms or provisions hereof or thereof.
- (e) No suit or proceeding at law or in equity or of any governmental body has been instituted or, to the knowledge of any Loan Party, threatened that



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could materially and adversely affect any Loan Party's financial condition or business operations.

- (f) No event or condition has occurred that could be expected to constitute a Material Adverse Change.
- (g) There has been no Material Adverse Change in the business, prospects, operations, or condition, financial or otherwise, of any Loan Party or any of the properties or assets of any Loan Party.

### **5. SECURITY FOR THE OBLIGATIONS**

5.1 **Grant of Security.** Each Borrower grants to Lender a continuing security interest and Lien in all presently existing and hereafter acquired or arising Collateral to secure prompt repayment of all Obligations and to secure the prompt performance by each Loan Party of each of its covenants and duties in this Agreement and the other Loan Documents. Lender's Lien attaches to all Collateral without further act on the part of Lender or Loan Parties. Loan Parties have no authority, express or implied, to dispose of, sell or transfer any of the Collateral, except for:

- (a) Sales of Inventory to buyers in the ordinary course of business if no Event of Default exists;
- (b) Sales, assignments, and transfers in the ordinary course of business of Equipment that is no longer necessary or required in the conduct of the Borrowers' business up to an aggregate net book value of \$25,000 each calendar year.

5.2 **Negotiable Collateral.** If any Collateral, including Proceeds and Chattel Paper, is evidenced by or consists of Negotiable Collateral, Loan Parties must, upon the Lender's request, immediately endorse and assign the Negotiable Collateral to Lender and deliver physical possession of the Negotiable Collateral to Lender.

5.3 **Additional Documentation.** Each Loan Party authorizes Lender to file all financing statements, continuation financing statements, and fixture filings as are necessary in the Lender's Discretion to perfect, maintain, and give notice of a first-priority perfected security interest in all of the Collateral (excepting such Collateral that is subject to Permitted Liens that Lender agreed in writing may be senior to Lender's Liens, in which case Lender will have a Lien subject to the prior Lien). At Lender's request, Loan Parties must execute and deliver to Lender, all security agreements, pledges, assignments, endorsements of certificates of title, applications for title, affidavits, reports, notices, schedules of accounts, letters of authority, and other documents that Lender requests, in form satisfactory to Lender, to perfect and continue perfected Lender's security interest in the Collateral and in order to fully consummate all of the transactions contemplated.

5.4 **Power of Attorney.** Each Loan Party irrevocably designates, makes, constitutes, and appoints Lender (and any of Lender's officers, employees, or agents designated by Lender)

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as each Loan Party's true and lawful attorney-in-fact, upon, and subject to, the terms of this Section. Under this power of attorney, Lender, or Lender's agent, may, without notice to any Loan Party and in either Lender's or a Loan Party's name, but at the cost and expense of the Loan Parties, at any time or times as Lender in its Discretion determines:

- (a) When an Event of Default exists, demand payment of Accounts from the Account Debtors, enforce payment of Accounts by legal proceedings or otherwise, and generally exercise all of each Loan Party's rights and remedies with respect to the collection of Accounts.
- (b) Take control, in any manner, of any item of payment or Proceeds relating to any Collateral.
- (c) When an Event of Default exists, prepare, file, and sign any Loan Party's name to a proof of claim in bankruptcy or similar document against any Account Debtor or to any notice of Lien, assignment, or satisfaction of Lien or similar document in connection with any of the Collateral.
- (d) Sign any Loan Party's name on any documents described in Section 5.2 or 5.3 or on any other similar documents to be executed, recorded, or filed in order to perfect or continue perfected Lender's security interest in the Collateral.
- (e) When an Event of Default exists, sign any Loan Party's name on any invoices, bills of lading, freight bills, Chattel Paper, documents, instruments or similar documents or agreements relating to Accounts, Inventory, or other Collateral, drafts against Account Debtors, schedules and assignments of Accounts, and notices to Account Debtors.
- (f) Send requests for verification of Accounts.
- (g) Endorse any Loan Party's name on any checks, notes, acceptances, money orders, drafts or other items of payment or Proceeds relating to any Accounts, Inventory, or Payment Intangibles that may come into Lender's possession and deposit the payments and proceeds to the account of Lender for application to the Obligations.
- (h) When an Event of Default exists, do all other acts and things necessary, in Lender's determination, to fulfill the Loan Parties' obligations under this Agreement or any of the other Loan Documents.
- (i) When an Event of Default exists, notify the post office authorities to change the address for delivery of any Loan Party's mail to an address designated by Lender, to receive and open all mail addressed to any Loan Party, and to retain all mail relating to the Collateral and forward all other mail to any Loan Party.

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- (j) When an Event of Default exists, use the information recorded on or contained in any equipment and computer hardware and software relating to the Accounts, Inventory, Equipment, and any other Collateral.
- (k) When an Event of Default exists, make, settle, and adjust all claims under all insurance policies relating to the Collateral, make all determinations and decisions with respect to the insurance policies, and endorse the name of any Loan Party on any check, draft, instrument, or other item of payment for the Proceeds of the insurance policies.
- (l) When an Event of Default exists, but subject to any notices required under this Agreement, any other Loan Documents or applicable law, sell or assign any of the Accounts and other Collateral upon terms, for amounts and at the time or times as Lender deems advisable.
- (m) When an Event of Default exists, settle, adjust or compromise disputes and claims respecting Accounts directly with Account Debtors, for amounts and upon terms that Lender determines, and, in furtherance thereof, execute and deliver any documents and releases that Lender determines to be necessary.

Lender's appointment as each Loan Party's attorney-in-fact and each and every one of Lender's rights and powers, being coupled with an interest, is irrevocable until all of the Obligations have been fully repaid and performed and this Agreement has been terminated.

5.5 **Inspections and Appraisals.** Lender, through any of its officers, employees, or agents and at Loan Parties' sole cost and expense, has the right at any time or times to inspect and audit the Business Records (and make copies of them). Lender also has the right at any time or times to inspect and examine Inventory, Equipment, and other assets and to check and test the same as to quality, quantity, value, and condition. Lender also has the right to conduct such field examinations and appraisals at such times as Lender deems necessary. Loan Parties' are responsible for all costs and expenses incurred with the matters covered by this Section and all of these amounts are part of the Expenses. Field examinations will be conducted at least quarterly during the Term. A full Inventory appraisal will be conducted at least annually; with a desktop appraisal required six months after each full Inventory appraisal during the Term.

5.6 **Commercial Tort Claims.** If any Borrower at any time after the Closing Date becomes aware of any Commercial Tort Claim, the applicable Borrower must promptly notify Lender in writing, which notice must (i) set forth in reasonable detail the basis for and nature of the Commercial Tort Claim, and (ii) include the express grant by Borrower to Lender of a security interest in the Commercial Tort Claim (and the Proceeds thereof). If the required notice does not include a grant of a security interest, the sending thereof by a Borrower to Lender will be treated as a grant of a security interest to Lender. When the notice is sent any Commercial Tort Claim described in the notice constitutes part of the Collateral and is treated as part of the Collateral. Without limiting Lender's authorization under Section 5.4 or otherwise arising out of the Borrowers' execution of this Agreement or any of the other Loan Documents, Lender is irrevocably authorized at any time to file financing statements naming Lender as secured party

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and each Borrower as debtor, or any amendments to financing statements covering any Commercial Tort Claims Collateral. In addition, the Borrowers must promptly, upon Lender's request, execute and deliver, or cause to be executed and delivered, to Lender such other agreements, documents and instruments as Lender may require to evidence Lender's security interest in any Commercial Tort Claim.

5.7 **Application of Proceeds.** Proceeds of Collateral may be applied to any of the Obligations in Lender's Discretion, and specifically may be applied to outstanding fees and Expenses owing to Lender before application to principal and interest.

## 6. REPRESENTATIONS AND WARRANTIES

To induce Lender to make Loans and issue Letters of Credit, each Loan Party represents and warrants to Lender as follows (which representations and warranties are treated as having been made with each request for a Revolving Loan or Letter of Credit unless the applicable representation or warranty is made as of a specific date, in which case the representation was true and correct as of that date):

6.1 **Organization.** Each of the Borrowers is registered and validly existing under the laws of the State of Ohio and the execution, delivery, and performance of the Loan Documents, including this Agreement and the issuance of any notes as provided in this Agreement, are within each Borrower's limited liability company powers, has been duly authorized by each Borrower, is not in contravention of law or the terms of any Borrower's articles of organization or operating agreement and does not require the consent or approval of any third party, including any governmental body, agency, or authority. Each Loan Party is duly licensed or qualified to do business in all jurisdictions in which it has property or business operations, or the failure to be so qualified could not reasonably be expected to materially and adversely affect it or its property.

6.2 **Financial Statements.** The Borrowers' balance sheets, statements of profit and loss and surplus, tax returns (if applicable) and cash flow statements furnished to Lender from time-to-time will be true, correct, and complete and will fairly present the Borrowers' financial condition as of the relevant dates and the results of its operations for the applicable time periods. Each Guarantor's financial statements and tax returns furnished to Lender from time-to-time will be true, correct, and complete and will fairly present Guarantor's financial condition as of the relevant dates and the results of its operations for the applicable time periods.

6.3 **Liens.** Except for Permitted Liens and excluding assets disclosed in writing to Lender as being subject to Operating Leases, each Loan Party has good and marketable title to all of the assets used in its business operations, including all Collateral, free and clear of all Liens.

6.4 **Absence of Conflicting Obligations.** The making and execution of the Loan Documents and compliance with their terms and the issuance of any notes will not (a) result in a breach of any of the terms and conditions of any material indenture, agreement, or instrument to which a Loan Party is a party or its assets are subject, or (b) result in the imposition of any Lien

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upon any property of any Loan Party that is a default under, any indenture or other agreement or instrument to which any Loan Party is a party or by which it is bound.

6.5 **Taxes.** No Loan Party has outstanding unpaid tax liabilities (except for taxes that are currently accruing from its current operations and ownership of property, and that are not delinquent), and no tax deficiencies have been proposed or assessed against any Loan Party. There have been no audits of any Loan Party's federal income tax returns that have resulted in or are likely to result in the assessment of any tax liability against any Loan Party that has not been paid and all taxes shown by any returns have been paid.

6.6 **Absence of Material Litigation.** No Loan Party is a party to any litigation or administrative proceeding, nor so far as is known does any Loan Party have any litigation or administrative proceeding threatened against it, which in either case would, if adversely determined, cause any Material Adverse Change in its properties or the conduct of its business.

6.7 **Absence of Environmental Problems.** Each Loan Party is in compliance with all Environmental Laws involving its past or present operations, facilities, and property (and no failure to comply could reasonably be expected to have a negative impact on any Loan Party or their respective businesses or properties). Further, no Loan Party has been cited for violating any Environmental Laws and each Loan Party has all necessary environmental permits and licenses to operate its business.

6.8 **Legal Name; Employer Identification Number.** Each Loan Party's full legal name is exactly as set forth on the signature page of this Agreement and no Loan Party has changed its name since the date of its organization, nor has it used any assumed name, trade name, or trade style, other than as set forth on Schedule 6.8. Each Loan Party's Federal employer identification number is set forth on Schedule 6.8.

6.9 **Financing Statements; Lien Priority.** Except for financing statements covering Permitted Liens, no financing statements, mortgages, or Lien notices covering any Collateral, or any other property of any Loan Party, are on file in any public office that evidence a Lien.

6.10 **ERISA.** No Reportable Event has occurred with respect to any Plan.

6.11 **Broker's Fees.** No broker's, finder's, or similar fees are payable by any Loan Party or Lender to any Person in connection with this Agreement.

6.12 **Principal Place of Business; Collateral Locations.**

- (a) Each Loan Party's principal place of business, records concerning the Collateral, and all other Business Records are located at the addresses set forth on Schedule 6.12 and all physical Collateral is located at those locations listed on Schedule 6.12; and
- (b) Loan Party Representative must provide Lender with 30 days prior written notice of any change with respect to any of the foregoing.

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6.13 **Full Disclosure.** This Agreement and all of the Exhibits, Schedules and other written material delivered by Loan Parties to Lender in connection with the transactions contemplated by this Agreement do not contain any statement that is false or misleading as to any fact and do not omit to state any fact necessary in order to make the statements therein not false or misleading. There are no additional facts that any Loan Party is aware of that has not been disclosed in writing to Lender that affects adversely or, so far as any Loan Party can reasonably foresee, could reasonably be expected to affect adversely any Loan Party's financial condition or business prospects.

6.14 **Flood Hazard.** No location at which any Loan Party does business or where Collateral is located falls within the boundaries of a special flood hazard area so designated by the United States Federal Emergency Management Administration.

6.15 **Intellectual Property.** Each Loan Party owns or possesses adequate licenses or other rights to use all patents, processes, trademarks, trade names, and copyrights necessary to conduct its business as now conducted or presently intended to be conducted and no Loan Party has reason to believe that any such rights conflict or will conflict with the rights of others. All of the patents, trademarks, copyrights, intellectual property licenses, and other intellectual property used by any Loan Party in its business are listed on Schedule 6.15.

6.16 **Compliance With Law.**

- (a) Each Loan Party is in compliance with all laws and regulations applicable to it, its business and properties. Each Loan Party has all licenses, permits, orders, and approvals that are required under any governmental law or regulation in connection with its business and properties ("Permits"). No notice of any violation has been received with respect of any Permits and no proceeding is pending or, to the best of each Loan Party's knowledge, threatened to terminate, revoke, or limit any Permits.
- (b) Loan Parties and their respective members, directors, officers and employees are not (i) a Designated Person; (ii) a Person that is owned or controlled by a Designated Person; (iii) located, organized, or a resident in a Sanctioned Country; or (iv) has directly or indirectly engaged in, or is now directly or indirectly engaged in, any dealings or transactions (A) with any Designated Person, (B) in any Sanctioned Country, or (C) otherwise in violation of Sanctions.

6.17 **Accounts.** All of each Loan Party's Accounts constitute bona fide existing obligations created by the sale and delivery of Inventory or the rendition of services to Account Debtors in the ordinary course of each Loan Party's business, and, in the case of Accounts created by the sale and delivery of Inventory or the rendition of services to Account Debtors in the ordinary course of each Loan Party's business, the Inventory giving rise to the Accounts has been delivered to the Account Debtor. At the time of the creation of each Eligible Account or the inclusion of the Account on a Borrowing Base Certificate, each Eligible Account is unconditionally owed to the applicable Borrower without defense, dispute, offset, counterclaim, or right of return or cancellation (other than those arising the in the ordinary course of the

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Borrowers' business that are consistent with the Borrowers' practices existing on the Closing Date), and that no Borrower has received notice of actual or imminent bankruptcy, insolvency, or impairment of the financial condition of the Account Debtor regarding any Eligible Account.

6.18 **Labor Matters.** No strikes or other labor disputes against any Loan Party are pending or, to each Loan Party's knowledge, threatened. Hours worked by and payment made to Loan Parties' employees have not been in violation of the Fair Labor Standards Act or any other applicable federal, state, local, or foreign law dealing with such matters. All payments due from Loan Parties on account of employee health and welfare insurance have been paid or accrued as a liability on Loan Parties' books. Except as set forth in Schedule 6.18, no Loan Party has any obligation under any collective bargaining agreement, management agreement, consulting agreement, or any employment agreement. There is no organizing activity involving any Loan Party pending or, to each Loan Party's knowledge, threatened by any labor union or group of employees. Except as set forth in Schedule 6.18, there are no representation proceedings pending and, to each Loan Party's knowledge, no group of employees of any Loan Party has made a pending demand for recognition. Except as set forth in Schedule 6.18, there are no complaints or charges against any Loan Party pending or threatened to be filed with any federal, state, local or foreign court, governmental agency or arbitrator based on, arising out of, in connection with, or otherwise relating to the employment or termination of employment by any Loan Party of any individual.

6.19 **Subsidiaries and Affiliates.** Schedule 6.19 accurately identifies all of each Loan Party's Subsidiaries, Affiliates, joint ventures, partnerships, and other similar arrangements with any other Person.

6.20 **Deposit Accounts.** No Borrower will maintain any deposit or other accounts, including any disbursement accounts, anywhere other than with Lender. All accounts held by/in the name of the Borrowers are set forth in Schedule 6.20 hereto.

6.21 **No Payment of Subordinated Indebtedness.** Without the prior written consent of Lender, no Borrower shall make (or give any notice in respect of) any voluntary or optional prepayment of principal or interest on any Subordinated Indebtedness, or directly or indirectly make any prepayment (including pursuant to any change of control provision), retirement, defeasance or other acquisition for value of any of the Subordinated Indebtedness, or make any deposit or otherwise set aside funds for any of the foregoing purposes.

6.22 **Equity Redemptions and Distributions.** No Loan Party is a party to any agreements that require or could obligate any Loan Party to redeem any Equity Interest or to make any distributions to any equity holder in respect of Equity Interests in any Loan Party.

6.23 **Not an Investment Company; Other Regulations.** No Loan Party is an "investment company" within the meaning of the Investment Company Act of 1940, as amended. No Loan Party is subject to any regulation under any federal or state statute or regulation (except those applicable to corporations generally) that limits its ability to incur Debt.

## 7. AFFIRMATIVE COVENANTS

While this Agreement is in effect or any of the Obligations remain unpaid, each Loan Party covenants and agrees that it will at all times:

### 7.1 Insurance.

- (a) Maintain adequate fire and extended coverage and liability insurance covering all of its present and future real and personal property, including the Collateral, with lender's loss payable and noncontributory mortgagee clauses in Lender's favor, protecting Lender's interest, as such interest may appear, together with such policies of business interruption insurance and products liability insurance as Lender may reasonably request and insurance in accordance with all applicable workers' compensation laws. All insurance must be in form, with companies having a Standard and Poor's rating of A or better, and in amounts acceptable to Lender, insuring against liability for damage to Persons or property, and must provide for 30 days prior written notice to Lender of cancellation or material alteration. In addition, Loan Parties must take all actions required under the Flood Laws and/or requested by Lender to assist in ensuring that Lender is in compliance with the Flood Laws applicable to the Collateral, including, but not limited to, providing Lender with the address and/or GPS coordinates of each structure on any property on which any Collateral is located and, to the extent required, obtaining flood insurance for that property, structures and contents before such property, structures and contents become Collateral, and thereafter maintaining flood insurance in full force and effect for so long as required by the Flood Laws. Loan Parties must provide Lender with true copies of the policies, simultaneously with the execution of this Agreement, showing that Lender's interest has properly been endorsed on the applicable policy as lender's loss payable and mortgagee and, in the case of liability insurance, as additional insured. Lender may, in its Discretion, on 30 days written notice to Loan Parties, require Loan Parties to obtain additional or different insurance coverages as Lender may reasonably request. If Loan Parties carry business interruption insurance (the "BI Policy"), the proceeds of the BI Policy must be assigned to Lender. If any insurance losses are paid by check, draft or other instrument payable to any Loan Party and Lender jointly, Lender may endorse such Loan Party's name thereon and do such other things as Lender may deem advisable to reduce the same to cash.
- (b) Lender is authorized to adjust and compromise claims under insurance coverage referred to in this Agreement and the other Loan Documents. All loss recoveries received by Lender under any such insurance may be applied to the Obligations, in such order as Lender in its sole discretion may determine. Any surplus will be paid by Lender to Loan Parties or applied as may be otherwise required by law. Any deficiency thereon



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must be paid by Loan Parties to Lender, on demand. If any Loan Party fails to obtain insurance as required under this Agreement or the other Loan Documents, or to keep the same in force, Lender, if it so elects, may obtain such insurance and pay the premium therefor on behalf of the Loan Parties, which payments will be charged to Loan Parties and is part of the Obligations.

7.2 **Existence; Payment of Taxes and Other Liabilities.** Maintain its limited liability company existence and report all necessary financial information, and pay all taxes, assessments, and other governmental charges against it or its property, and all of its other liabilities, before they become delinquent and before penalties accrue on these debts and obligations, except to the extent and so long as they are being contested in good faith by appropriate proceedings in a manner as not to cause any Material Adverse Change upon its financial condition, with adequate reserves provided for such payments, and, upon demand by Lender, posting with Lender adequate security to protect Lender.

7.3 **Accounting System.** Maintain a standard and modern system of accounting that enables the Borrowers to produce financial statements in accordance with GAAP. The Borrowers must also keep an inventory reporting system that shows accurate current stock, cost, and sales records of Inventory, that accurately and sufficiently itemizes and describes the kinds, types, and quantities of Inventory and the cost and selling prices thereof, and that shows all additions, sales, claims, returns, and allowances with respect to the Inventory.

7.4 **Accounting Records; Reports.** The Borrowers must provide to Lender the following in form satisfactory to Lender:

(a) Weekly or More.

- (i) Borrowing Base Certificates. With each request for a Revolving Loan or a Letter of Credit and in all events at least one time every seven-day period, the Borrowers must provide Lender a "Borrowing Base Certificate" and a corresponding sales, credit, and collection report, including, without limitation, cash receipts, credit memos and discounts, all in form and substance satisfactory to Lender. In addition, at least one time every seven-day period, the Borrowers must provide an updated listing of all Inventory of each Borrower, including a report showing Inventory Values by location and type, and detail on all Inventory not in a Borrower's possession, and a report reconciling Inventory to each Borrower's general ledger and the last Borrowing Base Certificate of the applicable week. For purposes of Borrowing Base Certificates, Inventory must be updated at least weekly based on the Borrowers' perpetual inventory.

(b) Monthly Reports.

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- (i) Within 30 calendar days after the end of each month, Consolidated and consolidating balance sheets of the Borrowers as of the close of the month and of the comparable month in the preceding fiscal year, a Consolidated statement of cash flow of the Borrowers as of the close of the month, and statements of income and surplus of the Borrowers for the month and for that part of the fiscal year ending with the month and for the corresponding period of the preceding fiscal year, all in reasonable detail.
  - (ii) Within 15 calendar days of the end of each month, agings of the Borrowers' accounts payable and accounts receivable as of the last day of the prior month, in form and detail as Lender may request (including that these are prepared in electronic format), together with a report reconciling Accounts, and Inventory to each Borrower's general ledger and the last Borrowing Base Certificate of the applicable month.
- (c) Annual Reports.
- (i) As soon as available and in any event within 90 calendar days after the close of each fiscal year, a copy of the Borrowers' Consolidated and consolidating financial statements, reviewed by an independent certified public accounting firm of recognized standing and reasonably acceptable to Lender, together with any and all footnotes and management letters.
  - (ii) Within 45 days after the end of each fiscal year, a detailed schedule of all insurance policies that Loan Parties had in force as of the end of such fiscal year.
  - (iii) Within 90 days after the end of each fiscal year, if requested by Lender, a list of names and addresses of all of Borrowers' customers.
  - (iv) Within 30 calendar days prior to the end of each fiscal year, the Borrowers' and Guarantors' (if applicable) will provide a month-by-month reasonably detailed (in Lender's reasonable discretion) projected income statement, balance sheet and cash flow statement for the succeeding fiscal year.
- (d) Compliance Certificates. An authorized officer of Loan Party Representative must provide, on behalf of Loan Parties, a Compliance Certificate in the form of Exhibit 7.4(d) with each financial statement delivered under Section 7.4(b)(i) and 7.4(c)(i).

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- (e) Guarantor Financial Statements and Tax Returns. For each Guarantor, provide to Lender personal financial statements and federal income tax returns within one hundred twenty (120) days after each fiscal year end.
- (f) Borrower Tax Returns/Information. Annually, within thirty (30) days of filing, each Borrower will provide to Lender copies of its filed federal and state tax returns (and all schedules thereto) or other financial documentation submitted to the Internal Revenue Service.
- (g) Additional Information.
  - (i) In addition to all information required to be provided under this Section, Loan Parties must promptly provide to Lender other and additional information concerning Loan Parties, the Collateral, Loan Parties' operations, and Loan Parties' financial condition, including original counterparts of financial reports and statements, as Lender may request from Loan Parties.
  - (ii) (A) As soon as possible and in any event within 30 calendar days after any Loan Party knows that any Reportable Event has occurred, a statement setting forth details as to the Reportable Event, together with a copy of the notice of the Reportable Event given to the Pension Benefit Guaranty Corporation; (B) promptly after the filing with the United States Secretary of Labor or the Pension Benefit Guaranty Corporation, copies of each annual report for each Plan administered by the Loan Parties; and (C) promptly after receipt, a copy of any notices any Loan Party receives from the Pension Benefit Guaranty Corporation or the Internal Revenue Service for any Plan administered by any Loan Party. Subpart (C), however, does not apply to notices of general application promulgated by the Pension Benefit Guaranty Corporation or the Internal Revenue Service.
- (h) Electronic Reporting. Unless otherwise agreed in writing in Lender's Discretion, all items and information required to be submitted by Loan Parties under this Section must be delivered to Lender by the specific method of Approved Electronic Communication designated by Lender. All information sent by Approved Electronic Communication is treated as an authenticated record sent by the individual and entity whose electronic mail address is provided thereon as "sender" or initiating party. In addition to Approved Electronic Communications, Lender may in its Discretion from time to time require that items and information be provided to Lender in physical form.
- (i) Accounting Standards. All financial statements to be provided to Lender under this Agreement must be prepared in accordance with GAAP.

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7.5 **Litigation.** Promptly furnish Lender, in writing, the details of all litigation, legal or administrative proceedings, or other actions of any nature adversely affecting any Loan Party, including, without limitation, any notices of violation, citation, commencement of administrative proceeding or similar notice under any applicable Environmental Laws, commenced after the Closing Date, in which more than \$50,000 is at issue.

7.6 **Audits and Examinations.** Permit Lender's representatives to conduct on-site audits and examinations (an "Examination") of Loan Parties' assets, business operations, and Business Records as often as Lender desires. The Borrowers must pay \$1,000 per day per auditor, plus out-of-pocket expenses incurred by Lender for each Examination performed by or on Lender's behalf.

7.7 **Compliance With Laws.** Comply with all applicable laws and regulations, in effect from time-to-time, including without limitation all Environmental Laws and regulations. Without limiting the foregoing, each Loan Party must (a) prohibit each of its members, managers, shareholders, partners and officers from being listed on the Specially Designated Nationals and Blocked Person List or other similar lists maintained by the Office of Foreign Assets Control ("OFAC"), the Department of the Treasury or included in any Executive Orders, (b) not permit the proceeds of the Loans or any other financial accommodation extended by the Lender to be used in any way that violates any foreign asset control regulations of OFAC or other applicable law, (c) comply with all applicable Bank Secrecy Act laws and regulations, as amended from time-to-time, and (d) otherwise comply with the USA Patriot Act and Lender's related policies and procedures.

7.8 **Maintenance of Properties.** Maintain and preserve all of its properties that are necessary or useful in the proper conduct of its business in good working order and condition, ordinary wear and tear excepted, and comply at all times with the provisions of all leases to which it is a party as lessee or under which it occupies property, so as to prevent any loss or forfeiture thereof or thereunder.

7.9 **Further Assurances.** At Lender's request, promptly execute or cause to be executed and delivered to Lender all documents, instruments and agreements deemed necessary or appropriate to facilitate the collection of any of the Collateral, or otherwise to give effect to or carry out the terms, conditions or intent of this Agreement (or any agreements or documents referred to or incorporated herein).

7.10 **Dominion of Funds.** On the Closing Date, the Borrowers must (a) have in place an arrangement with Lender so that, all Collections (including amounts from the Borrowers' merchant-card processor (if any)) are deposited directly to depository accounts maintained with Lender in which Loan Parties do not have any right to remove funds (the "Designated Accounts"), and (b) direct all Account Debtors to make all wire transfers and electronic funds transfers to the Designated Accounts. All Collections are held in trust for Lender's benefit and may not be used by the Borrowers for any purpose. If, notwithstanding the foregoing any Collections are wire transferred or paid by electronic funds transfers to any deposit account controlled by any Borrower, the Borrowers must immediately transfer those amounts to the Designated Accounts. All amounts received or deposited into the Designated Accounts are subject to Lender's security interest. Lender may also require that one or more of the Borrowers

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put in place within five days after Lender's request, a lockbox arrangement under which all Collections in the form of checks or drafts are sent to the lockbox controlled by Lender.

7.11 **Notice.** Promptly provide Lender written notice of the occurrence of any of the following events, including reasonable particularity as to the relevant facts and circumstances:

- (a) Any change in any Loan Party's president, chief executive officer, chief operating officer, chief financial officer or authorized representative (without regard to the title(s) actually given to the persons discharging the duties customarily discharged by officers with those titles).
- (b) Any Loan Party not making payment, in the ordinary course, to any of its creditors.
- (c) Any failure by any Loan Party to timely pay rent at any leased locations.
- (d) Any Material Adverse Change.
- (e) The occurrence of an Event of Default or a Default.
- (f) Any intention on the part of any Loan Party to discharge any Loan Party's independent accountants or any withdrawal or resignation by the independent accountants from their acting in that capacity.
- (g) Any litigation which, if determined adversely to any Loan Party, might have a Material Adverse Change on the financial condition of any Loan Party.

7.12 **Financial Covenant.** Beginning with the Measurement Period ending on December 31, 2016, and continuing as of the last day of each subsequent Measurement Period, maintain a Fixed Charge Coverage Ratio of at least 1.10 to 1.

7.13 **Use of Advances.** Use the proceeds of the Loans to refinance and consolidate certain existing Debt of the Borrowers, pay fees and Expenses, for working capital purposes, and general corporate purposes, and not for any other purpose. No Loan Party extends or maintains, in the ordinary course of business, credit for the purpose, whether immediate, incidental, or ultimate, of buying or carrying Margin Stock, and no part of the proceeds of any Loan may be used for the purpose, whether immediate, incidental, or ultimate, of buying or carrying any Margin Stock or maintaining or extending credit to others for that purpose.

7.14 **Deposit and Bank Accounts.** Maintain all deposit and other bank and financial accounts as provided on Schedule 6.20.

7.15 **Titles.** As soon as possible, but no later than as set forth in Section 7.16 hereto, each Borrower must deliver to Lender fully-executed originals of all documents and instruments specified by Lender to enable Lender to have its Lien noted on all of each Loan Party's titled assets (except those subject to a prior purchase-money Lien) as a first-priority Lien.

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7.16 **Post-Closing Deliveries.** Borrowers must deliver the following to Lender by the dated indicated:

- (a) Not later than seven (7) days after the Closing Date, copies of all insurance policies from the Borrowers' insurance carriers evidencing that all required insurance coverage is in effect, each designating the Lender as "Lender's Loss Payee" and additional insured thereunder, respectively;
- (b) Not later than ten (10) days after the Closing Date, correct, or cause to be corrected, the address on the Second Amendment to Lease (the "Seville Lease"), by and among STAG IV Seville, LLC and Borrowers to reflect the correct current legal address of the property, 286 Greenwich Road, Seville, Ohio 44273, and provide a copy of the updated Seville Lease to Lender;
- (c) Not later than fifteen (15) days after the Closing Date, (i) all original certificates of titles to each motor vehicle owned by the Borrowers as of the Closing Date, including as part of the Acquisition Assets, duly registered in the name of each applicable Borrower under applicable law ("Vehicle Titles"), or provide evidence acceptable to Lender that replacement Vehicle Titles have been duly applied for with the applicable governmental authorities, and (ii) duly completed applications under all relevant state laws, applying to have Lender's Lien noted on each of the Vehicle Titles and the release of all other Lines noted thereon (if applicable); and
- (d) Not later than ninety (90) days after the Closing Date, documentation evidencing that all registered intellectual property, including, without limitation, all copyrights and trademarks owned by Borrower, including those acquired as part of the Acquired Assets, have been properly assigned to Borrower and Lender's liens on same have been noted at the U.S. Patent and Trademark Office and/or U.S. Copyright Office.

## 8. **NEGATIVE COVENANTS**

While this Agreement remains in effect or any of the Obligations remain unpaid, each Loan Party covenants and agrees that it must not agree to and must not:

8.1 **Restriction on Liens.** Except for Permitted Liens, create or permit to be created or allow to exist any Lien upon or security interest in any property, including, without limitation, real property, or assets now owned or acquired in the future by any Loan Party.

8.2 **Restriction on Indebtedness.** Create, incur, assume, or have outstanding any indebtedness for borrowed money except:

- (a) The Obligations;
- (b) Indebtedness incurred in the ordinary course of a Loan Party's business for necessary Inventory, supplies, services, and the like;

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- (c) Permitted Indebtedness;
- (d) Indebtedness for Permitted Liens;
- (e) Promissory Note specifically set forth on Schedule 8.2 hereto.

8.3 **Subsidiaries; Mergers; Consolidations; Disposition of Assets; Organizational Changes.** Form any Subsidiary (whether wholly owned or otherwise) or merge with or into or consolidate with or into any other corporation or entity; sell, lease, transfer, or otherwise dispose of all or any part of its property, assets, or business (other than permitted under Section 5.1); or change the State of its incorporation, formation, or organization.

8.4 **Sale and Leaseback.** Enter into an agreement under which a Loan Party leases or purchases any property that Loan Party has sold or is to sell.

8.5 **Dividends, Distributions, and Redemptions.** Except for Permitted Dividends pay any management fees or any dividend, or make any other distribution on account of any shares of any class of its Equity Interests, or redeem, purchase, or otherwise acquire directly or indirectly, any shares of any class of its Equity Interests.

8.6 **Investments.** Make any loans or advances to, or investments in, other Persons, except:

- (a) Investments in (i) bank certificates of deposit and savings accounts; (ii) obligations of the United States; and (iii) prime commercial paper maturing within 90 days of the date of acquisition by a Borrower, in all cases after receiving Lender's prior written consent.
- (b) Advances made to employees and agents in the ordinary course of business, such as travel and entertainment advances and similar items, not to exceed in the aggregate \$25,000 outstanding at any time for all of the Borrowers.

8.7 **Contingent and Third Party Liabilities.** Guaranty or become a surety or otherwise contingently liable for any obligations of others, except for the deposit and collection of checks and similar items in the ordinary course of business, or assume or become obligated for any obligations of others.

8.8 **Capital Structure.** Make any change in any Loan Party's capital structure.

8.9 **Changes.** Make any substantial change in the nature of its business from that engaged in on the Closing Date, engage in any other businesses other than those engaged in on the Closing Date, change its legal name, or cease a material portion of its operations.

8.10 **Insider Transactions.** Enter into, or permit or suffer to exist, any transaction or arrangement with any shareholder, employee, director, officer, Affiliate, or shareholder of management, except on terms that are the same as to what that Loan Party could obtain in arm's-length transactions, with Persons who have no relationship with any Loan Party.

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8.11 **Capital Expenditures.** Make or incur liabilities for Capital Expenditures exceeding \$50,000 in any fiscal year in the aggregate for all of the Borrowers.

8.12 **Certain Agreements.** Enter into any agreement containing any provisions that would be violated or breached by any Loan Party's performance of its obligations under any Loan Document.

### 9. **LOAN PARTY REPRESENTATIVE; JOINT AND SEVERAL OBLIGATIONS**

9.1 **Appointment; Nature of Relationship.** Loan Party Representative is appointed by each of the Loan Parties as its contractual representative hereunder and under each other Loan Document, and each of the Loan Parties irrevocably authorizes Loan Party Representative to act as Loan Parties' contractual representative with the rights and duties set forth in this Agreement and in the other Loan Documents. Loan Party Representative agrees to act as such contractual representative. Additionally, Loan Parties appoint Loan Party Representative as their agent to receive all of the proceeds of the Loans in its Operating Account, at which time Loan Party Representative must promptly disburse such Loans to the appropriate Borrower. Lender and its officers, directors, agents, or employees are not liable to Loan Party Representative or any Loan Party for any action taken or omitted to be taken by Loan Party Representative or Loan Parties under this Section or this Agreement.

9.2 **Notices to Loan Party Representative.** Each Loan Party must immediately notify Loan Party Representative of the occurrence of any Default or Event of Default. If Loan Party Representative receives such a notice, Loan Party Representative must give prompt notice thereof to Lender. Any notice provided to Loan Party Representative under this Agreement or any Loan Document constitutes notice to each Loan Party on the date received by Loan Party Representative.

9.3 **Execution of Loan Documents; Borrowing Base Certificate.** Loan Parties empower and authorize Loan Party Representative, on behalf of all Loan Parties, to execute and deliver to Lender the Loan Documents and all related agreements, certificates, documents, or instruments as are necessary or appropriate to effect the purposes of the Loan Documents, including without limitation, the Borrowing Base Certificates and the Compliance Certificates. Each Loan Party agrees that any action taken by Loan Party Representative or Loan Parties in accordance with the terms of this Agreement or the other Loan Documents, and the exercise by Loan Party Representative of its powers set forth therein or herein, together with such other powers that are reasonably incidental thereto, is binding upon all Loan Parties.

9.4 **Waivers.** Each Loan Party expressly waives (a) any and all rights of subrogation, reimbursement, indemnity, exoneration, contribution, or any other claim that any Loan Party may now or hereafter have against the other Loan Parties or other Person directly or contingently liable for the Obligations hereunder, or against or with respect to the other Loan Party's property (including, any property that is Collateral for the Obligations), arising from the existence or performance of this Agreement, until termination of this Agreement and repayment in full of the Obligations and (b) any defense it may otherwise have to the payment and performance of the Obligations based on any contention that its liability hereunder and under the Loan Documents is limited and not joint and several. Each Loan Party acknowledges and agrees that the foregoing



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waivers serve as a material inducement to Lender's agreement to make the Loans, and that Lender is relying on each specific waiver and all such waivers in entering into this Agreement.

### 9.5 Joint and Several Obligations.

- (a) All Obligations are the joint and several Obligations of each Loan Party, and each Loan Party must make payment upon the maturity of the Obligations by acceleration or otherwise, and this obligation and liability on the part of each Loan Party is not affected by any extensions, renewals, and forbearance granted by Lender to any Loan Party, Lender's failure to give any Loan Party notice of borrowing or any other notice, Lender's failure to pursue or preserve its rights against any Loan Party, the release by Lender of any Collateral now or hereafter acquired from any Loan Party, and any agreement by each Loan Party to pay upon any notice issued pursuant thereto is unconditional and unaffected by prior recourse by Lender to the other Loan Party or any Collateral for each Loan Party's obligations or the lack thereof. Each Loan Party waives all suretyship defenses. Without limiting the generality of the foregoing, each Loan Party acknowledges and agrees that any and all actions, inactions, or omissions by any one or more, or all, of the Loan Parties in connection with, related to, or otherwise affecting this Agreement or any of the other Loan Documents are the obligations of, and inure to and are binding upon, each and all of the Loan Parties, jointly and severally.
- (b) Each covenant, agreement, obligation, representation and warranty of the Loan Parties contained in this Agreement is the joint and several undertaking of each Loan Party. Each Loan Party acknowledges that its obligations undertaken herein might be construed to consist, at least in part, of the guarantee of Obligations of the other Loan Parties and, in full recognition of that fact, each Loan Party consents and agrees that Lender may, at any time and from time-to-time without notice or demand, whether before or after any actual or purported termination, repudiation, or revocation of this Agreement by any Loan Party, and without affecting the enforceability or continuing effectiveness of this Agreement as to any Loan Party but subject to the Loan Party Representative's written consent with respect to clauses (i) and (ii) of this subsection to the extent Lender does not have the unilateral right to make such changes under the terms of the Loan Documents as the result of the occurrence of an Event of Default or otherwise: (i) supplement, restate, modify, amend, increase, decrease, extend, renew, or otherwise change the time for payment or the terms of this Agreement or any part thereof, including any increase or decrease of the rate(s) of interest thereon; (ii) supplement, restate, modify, amend, increase, decrease or waive, or enter into or give any agreement, approval or consent with respect to, this Agreement or any part thereof, or any of the Loan Documents, or any condition, covenant, default, remedy, right, representation, or term thereof or thereunder; (iii) accept partial payments; (iv) release, reconvey, terminate, waive, abandon, fail to perfect,

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subordinate, exchange, substitute, transfer or enforce any security or guarantees, and apply any security and direct the order or manner of sale thereof as Lender, in its Discretion determines; (v) release any Person or entity from any personal liability with respect to this Agreement or any part thereof; (vi) settle, release on terms satisfactory to Lender or by operation of applicable law or otherwise liquidate or enforce any security or guaranty in any manner, consent to the transfer of any security and bid and purchase at any sale; or (vii) consent to the merger, change or any other restructuring or termination of the corporate existence of any Loan Party, or any other Person or entity, and correspondingly restructure the Obligations, and any merger, change, restructuring or termination does not affect the liability of any Loan Party or the continuing effectiveness of this Agreement, or the enforceability of this Agreement with respect to all or any part of the Obligations.

- (c) Each Loan Party states and acknowledges that: (i) under this Agreement, the Loan Parties desire to utilize their borrowing potential on a consolidated basis to the same extent possible as if they were merged into a single corporate entity and that this Agreement reflects the establishment of credit facilities that would not otherwise be available to the Loan Parties if each Loan Party were not jointly and severally liable for payment of the Obligations; (ii) it has determined that it will benefit specifically and materially from the advances of credit contemplated by this Agreement; (iii) it is both a condition precedent to Lender's obligations hereunder and a desire of the Loan Parties that each Loan Party execute and deliver to Lender this Agreement; and (iv) the Loan Parties have requested and bargained for the structure and terms of and security for the advances contemplated by this Agreement. Each Loan Party agrees if its joint and several liability hereunder, or if any security interests securing the joint and several liability, would, but for the application of this Section, be unenforceable under applicable law, then the joint and several liability and each security interests is valid and enforceable to the maximum extent that would not cause the joint and several liability or security interests to be unenforceable under applicable law, and the joint and several liability and the security interest is treated as having been automatically amended accordingly at all relevant times.
- (d) To the extent that any Loan Party, under this Agreement as a joint and several obligor or a Guarantor under Section 9.6, repays any of the Obligations constituting Loans made to another Loan Party or other Obligations incurred directly and primarily by any other Loan Party (an "Accommodation Payment"), then the Loan Party making an Accommodation Payment is entitled to contribution and indemnification from, and, be reimbursed by, each of the other Loan Parties in an amount, for each of the other Loan Parties, equal to a fraction of the Accommodation Payment, the numerator of which fraction is the other Loan Party's "Allocable Amount" (as defined below) and the denominator

of which is the sum of the Allocable Amounts of all of the Loan Parties. As of any date of determination, the "Allocable Amount" of each Loan Party is equal to the maximum amount of liability for Accommodation Payments that could be asserted against that Loan Party hereunder without (i) rendering that Loan Party "insolvent" within the meaning of Section 101(31) of the Bankruptcy Code, Section 2 of the Uniform Fraudulent Transfer Act ("UFTA") or Section 2 of the Uniform Fraudulent Conveyance Act ("UFCA"), (ii) leaving that Loan Party with unreasonably small capital or assets, within the meaning of Section 548 of the United States Bankruptcy Code, Section 4 of the UFTA, or (iii) leaving that Loan Party unable to pay its debts as they become due within the meaning of Section 548 of the United States Bankruptcy Code or Section 4 of the UFTA, or Section 5 of the UFCA. All rights and claims of contribution, indemnification, and reimbursement under this Section are subordinate in right of payment to the prior payment in full of the Obligations. The provisions of this Section, to the extent expressly inconsistent with any provision in any Loan Document, supersede the inconsistent provision.

9.6 Cross-Guaranty.

- (a) Notwithstanding the fact that the parties agreed that the Loan Parties are jointly and severally liable for all Obligations, if for any reason the Loan Parties are found in a final order by a court of competent jurisdiction to not be jointly and severally liable for all Obligations, the provisions of this Section will apply and each Loan Party absolutely and unconditionally guarantees to Lender and its successors and assigns, the full and prompt payment (whether at stated maturity, by acceleration or otherwise) and performance of, all Obligations owed or hereafter owing to Lender by the other Loan Parties. Each Loan Party agrees that its guaranty obligation hereunder is in addition to all other guaranty obligations and is a guaranty of payment and performance and not of collection, and that its obligations under this Section are absolute and unconditional, irrespective of, and unaffected by:
- (i) The genuineness, validity, regularity, enforceability or any future amendment of, or change in, this Agreement, any other Loan Document or any other agreement, document or instrument to which the other Loan Parties are or may become a party.
- (ii) The absence of any action to enforce this Agreement (including this Section) or any other Loan Document or the waiver or consent by Lender with respect to any of the provisions thereof.
- (iii) The existence, value or condition of, or failure to perfect its Lien against, any security for the Obligations or any action, or the absence of

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any action, by Lender in respect thereof (including, without limitation, the release of any such security).

- (iv) Any other action or circumstances that might otherwise constitute a legal or equitable discharge or defense of a surety or guarantor (other than payment in full).
- (b) Each Loan Party agrees that its obligations under this Section are not discharged until the payment and performance, in full, of the Obligations has occurred (other than contingent indemnification obligations for which no claim has been threatened or asserted). Each Loan Party is treated, and will be in the same position, as a principal debtor with respect to the Obligations guaranteed hereunder. Each Loan Party expressly waives all rights it may have now or in the future under any statute, or at common law, or at law or in equity, or otherwise, to compel Lender to proceed in respect of the Obligations guaranteed hereunder against the other Loan Parties or any other party or against any security for the payment and performance of the Obligations before proceeding against, or as a condition to proceeding against, that Loan Party. Each Loan Party agrees that any notice or directive given at any time to Lender that is inconsistent with the waiver in the immediately preceding sentence will be null and void and may be ignored by Lender, and, in addition, may not be pleaded or introduced as evidence in any litigation relating to this Agreement (including this Section) for the reason that such pleading or introduction would be at variance with the written terms of this Agreement (including this Section), unless Lender has specifically agreed otherwise in writing. It is agreed among the Loan Parties and Lender that the foregoing waivers are of the essence of the transaction contemplated by this Agreement and the other Loan Documents and that, but for the provisions of this Section and such waivers, Lender would decline to enter into this Agreement.
- (c) Each Loan Party agrees that in no event does Lender have any obligation (although it may be entitled, at its option) to proceed against the other Loan Parties or any other person or any real or personal property pledged to secure the Obligations before seeking satisfaction from that Loan Party, and Lender may proceed, prior or subsequent to, or simultaneously with, the enforcement of Lender's rights under this Section, to exercise any right or remedy that it may have against any property, real or personal, as a result of any Lien it may have as security for all or any portion of the Obligations.
- (d) In addition to the waivers contained elsewhere in this Section, each Loan Party waives, and agrees that it may not at any time insist upon, plead or in any manner whatever claim or take the benefit or advantage of, any appraisal, valuation, stay, extension, marshaling of assets or redemption laws, or exemption, whether now or at any time hereafter in force, that may delay, prevent or otherwise affect the performance by that Loan Party

of the Obligations guaranteed under, or the enforcement by Lender of, this Section. Each Loan Party waives diligence, presentment, and demand (whether for non-payment or protest or of acceptance, maturity, extension of time, change in nature or form of the Obligations, acceptance of further security, release of further security, composition or agreement arrived at as to the amount of, or the terms of, the Obligations, notice of adverse change in the other Loan Parties' financial condition or any other fact that might increase the risk to that Loan Party) with respect to any of the Obligations guaranteed hereunder or all other demands whatsoever and waives the benefit of all provisions of law that are or might be in conflict with the terms of this Section. Each Loan Party represents, warrants and agrees that, as of the Closing Date, its obligations under this Section are not subject to any offsets or defenses against Lender or any other Loan Party of any kind. Each Loan Party further agrees that its obligations under this Section are not be subject to any counterclaims, offsets or defenses against Lender or against the other Loan Parties of any kind that may arise in the future.

- (e) Notwithstanding anything to the contrary in this Agreement or in any other Loan Document, and except as set forth in this Section, each Loan Party:
  - (i) Subordinates and defers, to the fullest extent possible at all times before the payment in full of the Obligations (other than contingent indemnification obligations for which no claim has been threatened or asserted), on behalf of itself and its successors and assigns (including any surety) and any other person, any and all rights at law or in equity to subrogation, reimbursement, exoneration, contribution, indemnification, set off, or any other rights that could accrue to a surety against a principal, to a guarantor against a principal, to a guarantor against a maker or obligor, to an accommodation party against the party accommodated, to a holder or transferee against a maker, or to the holder of any claim against any person, and that a Loan Party may have or hereafter acquire against the other Loan Parties or any person in connection with or as a result of Loan Party's performance of this Section, or any other documents to which that Loan Party is a party or otherwise.
  - (ii) Expressly and irrevocably subordinates and defers any "claim" (as that term is defined in the Bankruptcy Code) of any kind against the Loan Parties before the payment in full of the Obligations (other than contingent indemnification obligations for which no claim has been threatened or asserted), and further agrees that it may not have or assert any such rights against any person (including any surety), either directly or as an attempted set off to any action commenced against the other Loan Parties by Lender or any other person before the payment in full of the Obligations

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(other than contingent indemnification obligations for which no claim has been threatened or asserted).

- (iii) Acknowledges and agrees (x) that this subordination and deferral is intended to benefit Lender and does not limit or otherwise effect that Loan Party's liability hereunder or the enforceability of this Section, and (y) that Lender and its respective successors and assigns are intended third party beneficiaries of the waivers and agreements set forth in this Section.
  
- (f) If Lender proceeds to realize its benefits under any of the Loan Documents giving or creating a Lien upon any Collateral or any real estate collateral (whether owned by a Loan Party or by any other person), either by judicial foreclosure or by non-judicial sale or enforcement, Lender may, at its sole option, determine which of its remedies or rights it may pursue without affecting any of its rights and remedies under this Section. If, in the exercise of any of its rights and remedies, Lender forfeits any of its rights or remedies, including its right to enter a deficiency judgment against any Loan Party or any other person, whether because of any applicable laws pertaining to "election of remedies" or the like, the Loan Parties consent to such action by Lender and waive any claim based upon such action, even if such action by Lender results in a full or partial loss of any rights of subrogation that a Loan Party might otherwise have had but for such action by Lender. Any election of remedies that results in the denial or impairment of Lender's right to seek a deficiency judgment against a Loan Party does not impair the other Loan Parties' obligation to pay the full amount of the Obligations. If Lender bids at any foreclosure or trustee's sale or at any private sale permitted by law or the Loan Documents, Lender may bid all or less than the amount of the Obligations and the amount of such bid need not be paid by Lender but will be credited against the Obligations. The amount of the successful bid at any such sale, whether by Lender or any other successful bidder, are conclusively treated as be the fair market value of the Collateral and the difference between such bid amount and the remaining balance of the Obligations is conclusively treated as the amount of the Obligations guaranteed under this Section, notwithstanding that any present or future law or court decision or ruling may have the effect of reducing the amount of any deficiency claim to which Lender might otherwise be entitled but for such bidding at any such sale.
  
- (g) The Loan Parties agree that the guaranty set forth in this Section is a continuing guaranty that remains in full force and effect until the payment and performance in full of the Obligations (other than contingent indemnification obligations for which no claim has been threatened or asserted).

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- (h) Each Loan Party's liability under this Section is limited to an amount not to exceed as of any date of determination the greater of:
  - (i) the net amount of all Loans to and Letters of Credit issued for the benefit of the other Loan Parties under this Agreement and then re-loaned or otherwise transferred to or directly benefiting the subject Loan Party; or
  - (ii) the Loan Party's Allocable Amount, after taking into account, among other things, that Loan Party's right of contribution and indemnification from the other Loan Parties under Section 9.5.

### 10. DEFAULTS

If any one or more of the following events (each an "Event of Default") occurs, then Lender's obligation, if any, to make any Loan or issue any Letter of Credit immediately terminates, and the unpaid principal balance of, and accrued interest on, all Obligations, at Lender's option, is immediately due and payable, without further act or notice of any kind, notwithstanding anything contained to the contrary in this Agreement or in any other agreement, note, or document (including the Loan Documents):

10.1 Default in Payment of Obligations. Any Loan Party does not make a payment of any Obligations when due (including principal, interest, Expenses, or any Overadvance).

10.2 Default Under Any Loan Document. A default in the performance or observance of any term, condition or covenant in this Agreement or in any other agreement or instrument made or given by any Loan Party to Lender required to be observed or performed by any Loan Party.

10.3 Representations or Statements False. Any representation or warranty made by any Loan Party in this Agreement or any certificate delivered in accordance with this Agreement, or any financial statement delivered to Lender, proves to have been false as of the time when made or given.

10.4 Default under the Aged Accounts Receivable Agreement or Acquisition Document. A default in the performance or observance of any term, condition or covenant in the Aged Accounts Receivable Agreement or any Acquisition Document.

10.5 Default on Other Debt. A Loan Party does not pay all or any part of the principal of or interest on any Funded Debt with an outstanding unpaid balance in excess of \$50,000 as and when due and payable, whether at maturity, by acceleration, or otherwise, and the default is not cured within the grace period, if any, specified in the documents(s) evidencing the indebtedness.

10.6 Judgments. A judgment (to the extent not covered by insurance) is entered against any Loan Party which, together with other outstanding judgments entered against Loan Parties, exceeds in the aggregate \$50,000 and remains outstanding and unsatisfied, unbonded, or unstayed for 10 days.

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10.7 **Bankruptcy; Insolvency.** Any Loan Party: (a) becomes insolvent; (b) is unable, or admits in writing its inability, to pay debts as they generally mature; (c) makes a general assignment for the benefit of creditors or to an agent authorized to liquidate any substantial amount of its property; (d) files on its behalf or consents to an Insolvency Proceeding; (e) has an Insolvency Proceeding filed or instituted against it that is not stayed or dismissed within 60 days after it is filed or instituted; (f) applies to a court for the appointment of a receiver, trustee, or custodian for any of its assets; (g) has a receiver, trustee, or custodian appointed for any of its assets (with or without its consent); or (h) commences a self-liquidation of its assets. However, (i) this Agreement is treated as terminated immediately upon the entry of an order for relief in any proceeding under Title 11 of the United States Code without any action by Lender, and (ii) if an involuntary proceeding arises under that statute, Lender has no obligation to continue any financing from and after the commencement of the proceeding.

10.8 **Reportable Event.** If any Reportable Event occurs and continues for 30 days or any Plan is terminated within the meaning of Title IV of ERISA, or a trustee is appointed by the appropriate United States District Court to administer any Plan, or the Pension Benefit Guaranty Corporation institutes proceedings to terminate any Plan or to appoint a trustee to administer any Plan.

10.9 **Material Loss or Adverse Change.** Any Loan Party suffers: (a) a casualty as to any material asset or assets used in the conduct of any Loan Party's business that is not, except for deductibles acceptable to Lender, fully covered by insurance conforming to the requirements of this Agreement; or (b) a Material Adverse Change.

10.10 **Government Lien.** A notice of Lien, levy, or assessment is filed of record against any of any Loan Party's assets by the United States government, or any department, agency or instrumentality thereof, or by any state, county, municipal, or other governmental agency, or any tax or debt owing at any time hereafter to anyone becomes a Lien, whether choate or otherwise, upon any of any Loan Party's assets and the Lien is not paid on the payment due date, except amounts that are being contested in good faith by appropriate legal or administrative proceedings.

10.11 **Impairment.** There is an impairment of the prospect of repayment of any portion of the Obligations owing to Lender or an impairment of the value or priority of Lender's security interests or Mortgages in or on the Collateral.

10.12 **Levy or Attachment.** Any of any Loan Party's assets are attached, seized, subjected to a writ or distress warrant, or are levied upon, or come into the possession of any judicial officer.

10.13 **Indictment - Forfeiture.** The indictment of, or institution of any legal process or proceeding against, any Loan Party, or any of its or their officers or directors, under any applicable law where the relief, penalties, or remedies sought or available are a felony or include the forfeiture of more than \$50,000 of property of any Loan Party or the imposition of any stay or other order, the effect of which could be to restrain in any material way the conduct by any Loan Party of its business in the ordinary course.



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### 10.14 Challenge to Loan Documents.

- (a) Any challenge by or on behalf of any Loan Party to the validity of any Loan Document or the applicability or enforceability of any Loan Document strictly in accordance with the Loan Document's terms or that seeks to void, avoid, limit, or otherwise adversely affect any Lien created by or in any Loan Document or any payment made pursuant thereto.
- (b) Any final determination by any court or any other judicial or government authority that any Loan Document is not enforceable strictly in accordance with the Loan Document's terms or that voids, avoids, limits, or otherwise adversely affects any Lien created by any Loan Document or any payments made under any Loan Document.

10.15 Change of Control. A Change of Control occurs.

10.16 Loan Party Default. Any Loan Party defaults under its agreements with Lender.

## 11. REMEDIES ON OCCURRENCE OF AN EVENT OF DEFAULT

11.1 Right and Remedies. When an Event of Default exists, Lender has all rights and remedies provided under the Loan Documents, by law, under any guaranty agreement relating to the Obligations, under any security agreement or mortgage relating to the Collateral, and under all other existing and future agreements between Lender and any Loan Party. All rights and remedies are cumulative. When an Event of Default exists, Lender may, at its election, without notice of its election and without demand, do any one or more of the following, which are all authorized by Loan Parties:

- (a) Declare all Obligations, whether evidenced by this Agreement, any of the other Loan Documents, or otherwise, immediately due and payable in full.
- (b) Cease making Loans or advances under this Agreement, any of the other Loan Documents, or any other agreement between any Loan Party and Lender.
- (c) Terminate this Agreement and any of the other Loan Documents as to any future liability or obligation of Lender, but without affecting Lender's rights, security interests, and Mortgages in the Collateral and without affecting the Obligations.
- (d) Settle or adjust disputes and claims directly with Account Debtors for amounts and upon terms that Lender considers advisable and, Lender will credit the Borrowers' loan account with only the net cash amounts received by Lender in payment of the disputed Accounts, after deducting all Expenses incurred or expended in connection therewith.
- (e) Cause Loan Parties to hold all returned Inventory in trust for Lender, segregate all returned Inventory from all other property of Loan Parties or

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in any Loan Party's possession, and conspicuously label the returned Inventory as the property of Lender.

- (f) Without notice to or demand upon Loan Parties, make payments and do acts Lender considers necessary or desirable to protect its security interest in the Collateral. Loan Parties agree to assemble the Collateral if Lender so requires and to deliver (to the extent movable) or make the Collateral available to Lender at the Borrowers' then-current location(s). Loan Parties authorize Lender to enter any premises where the Collateral is located, to take and maintain possession of the Collateral, or any part of it, and to pay, purchase, contest, or compromise any Lien on the Collateral and to pay all expenses incurred in connection therewith. With respect to any Loan Party's owned premises, Loan Parties grant Lender a license to enter into possession of the premises and to occupy the premises, without charge, in order to exercise any of Lender's rights or remedies provided in this Agreement, at law, in equity, or otherwise.
- (g) Without notice to Loan Parties (which notice is expressly waived) and without constituting a retention of any Collateral in satisfaction of an obligation (within the meaning of Section 9-620 of the UCC), hold or set off and apply to the Obligations any (i) balances and deposits of any one or more of the Loan Parties held by Lender (including any amounts received in a lockbox or blocked account) or (ii) indebtedness at any time owing to or for the credit or the account of Loan Parties held by Lender.
- (h) Hold, or set off and apply, as cash collateral, any and all balances and deposits of the Borrowers held by Lender (including any amounts received in a lockbox or blocked account) to secure the Obligations.
- (i) Ship, reclaim, recover, store, finish, maintain, repair, prepare for sale, advertise for sale, and sell the Collateral. Each Loan Party grants Lender an assignable license and right to use, without charge, Loan Parties' labels, patents, copyrights, rights of use of any name, trade secrets, trade names, trademarks, service marks, and advertising matter, or any property of a similar nature, as it pertains to the Collateral, in completing production of, advertising for sale, and selling any Collateral. Loan Parties' rights under all licenses and all franchise agreements will inure to Lender's benefit.
- (j) Sell the Collateral at either a public or private sale, or both, by way of one or more contracts or transactions, for cash or on terms, in such manner and at such places (including any Loan Party's premises) as Lender determines is commercially reasonable. It is not necessary that the Collateral be present at any sale. Lender will give notice of the disposition of the Collateral as required by law. Any deficiency that exists after disposition of the Collateral as provided above must be paid immediately by Loan Parties. Any excess will be remitted without interest by Lender to the party or parties legally entitled to the excess.

## EXECUTION VERSION

- (k) Credit bid and purchase at any public sale.

In addition to the foregoing, Lender will have all rights and remedies provided by law and any rights and remedies contained in any other Loan Documents. All rights and remedies are cumulative.

11.2 **No Waiver.** No delay on Lender's part in exercising any right, power, or privilege under this Agreement or any Loan Document is a waiver, nor does any single or partial exercise of any right, power, or privilege under this Agreement or otherwise preclude other or further exercise of the right, power, or privilege or the exercise of any other right, power, or privilege.

## 12. GENERAL TERMS

### 12.1 Expenses, Fees, and Costs; Indemnification.

- (a) Loan Parties must pay all Expenses. Loan Parties also agree to indemnify Lender for any and all Claims that may be imposed on, incurred by or asserted against Lender in connection with this Agreement or any Loan Document or transactions contemplated hereby or thereby or the business relationship between Lender and Loan Parties, except for Claims arising from Lender's willful misconduct.
- (b) Loan Parties' obligation to pay the Expenses and all of the reimbursement and indemnification obligations provided for in the Loan Documents are part of the Obligations, are secured by all of the Collateral, and survive the repayment of the Obligations.

12.2 **Successors.** The provisions of this Agreement inure to the benefit of and are binding upon any successor to any of the parties to this Agreement, including any commercial bank that acquires or merges with Lender. Persons, however, that succeed to the rights of any Loan Party under this Agreement are not entitled to enforce any of Loan Parties' rights or remedies under or by reason of this Agreement, or any other agreement referred to or incorporated by reference into this Agreement (including the Loan Documents), unless they have obtained Lender's prior written consent to succeed to those rights.

12.3 **Assignments and Participations.** Loan Parties consent to Lender's sale of participations in the Loans or an assignment of all or any partial interest in the Loans and Loan Documents to any third party. Loan Parties also acknowledge and agree that any assignment creates a direct obligation of Loan Parties to the assignee and the assignee, for purposes of Section 12.1, is a "Lender." Further, in connection with the sale of a participation or an assignment of any interest in the Loans, Lender is free to provide the participant or assignee any financial or other information in its possession or control related to Loan Parties.

### 12.4 Waivers by Loan Parties.

- (a) Except as prohibited by applicable law, Loan Parties waive: (i) presentment, demand and protest and notice of presentment, dishonor,

## EXECUTION VERSION

notice of intent to accelerate, notice of acceleration, protest, default, nonpayment, maturity, release, compromise, settlement, extension or renewal of any or all commercial paper, Accounts, contract rights, Documents, Instruments, Chattel Paper and guaranties at any time held by Lender on which Loan Parties may in any way be liable, and ratifies and confirms whatever Lender may do in this regard, (ii) all rights to notice and a hearing before Lender's taking possession or control of, or to Lender's replevin, attachment, or levy upon, the Collateral, and (iii) the benefit of all valuation, appraisal, and exemption laws.

- (b) **To induce Lender to enter into the Loan Documents, to the fullest extent permitted by applicable law, Loan Parties may not assert, and Loan Parties waive, any Claim against Lender, on any theory of liability, for special, indirect, consequential, incidental, or punitive damages (as opposed to direct or actual damages) arising out of, in connection with, or as a result of, this Agreement, any of the other Loan Documents or any undertaking or transaction related to this Agreement, the other Loan Documents, the Obligations, or the Collateral.** Lender has no liability to Loan Parties (whether in tort, contract, equity, or otherwise) for losses suffered by Loan Parties in connection with, arising out of, or in any way related to the transactions or relationships contemplated by this Agreement, or any act, omission or event occurring in connection herewith, unless it is determined by a final and non-appealable judgment or court order binding on Lender, that the losses were the result of acts or omissions constituting gross negligence or willful misconduct. In any litigation, Lender is entitled to the benefit of the rebuttable presumption that it acted in good faith and with the exercise of ordinary care in the performance by it of the terms of this Agreement. Loan Parties: (i) certify that neither Lender nor any representative, agent, or attorney acting for or on behalf of Lender has represented, expressly or otherwise, that Lender would not, in the event of litigation, seek to enforce any of the waivers provided for in this Agreement or any of the other Loan Documents and (ii) acknowledge that in entering into this Agreement and the other Loan Documents, Lender is relying upon, among other things, the waivers and certifications set forth in this Section and elsewhere in this Agreement.
- (c) Loan Parties waive any bond or surety or security upon such bond or surety (other than any appeal bond required in connection with any appeal initiated by Lender) that might be required of Lender before Lender enforces its rights under this Agreement or otherwise applicable law.

12.5 **Anti Waiver; Amendments; and Cumulative Remedies Provisions.** No failure or delay on Lender's part in exercising any power or right, and no course of dealing between Loan Parties and Lender, waives any power or right, nor does any single or partial exercise of any power or right preclude other or further exercise thereof or the exercise of any other power or right. The remedies provided for in the Loan Documents are cumulative and not exclusive of

## EXECUTION VERSION

any remedies that may be available to Lender at law or in equity. No notice to or demand on Loan Parties not required hereunder or under any note or other agreement entitles Loan Parties to any other or further notice or demand in similar or other circumstances or constitute a waiver of the right of Lender or the holder of any note to any other or further action in any circumstances without notice or demand. Any waiver of any provision of this Agreement, any note or other agreement, and any consent to any departure by Loan Parties from the terms of any provision of this Agreement, any note or other agreement, is effective only in the specific instance and for the specific purpose for which it is given. Neither this Agreement nor any note or other agreement nor any terms hereof or thereof may be changed, waived, discharged, or terminated unless the change, waiver, discharge, or termination is in writing signed by Loan Parties and Lender.

12.6 **Controlling Law.** This Agreement and the other Loan Documents are governed by and construed in accordance with the internal laws of the State of Ohio applicable to contracts made and performed within Ohio without regard to conflict of laws principles.

12.7 **Counterparts.** This Agreement may be signed in any number of counterparts with the same effect as if all signatures were upon the same instrument.

### 12.8 **Notices.**

- (a) All communications or notices that are required or may be given under this Agreement must be in writing (including telecommunications) and, if to Loan Parties, c/o Loan Party Representative, DeoGratias, and if to Lender, addressed to it at the address specified at the beginning of this Agreement, or by email to Charles.Stephenson@WNBSF.com and with a copy to Drew T. Parobek, Esq. at Vorys, Sater, Seymour and Pease LLP, 200 Public Square, Ste. 1400, Cleveland, Ohio 44114, and delivered by any of the following means: (i) hand delivery, (ii) Federal Express or other recognized overnight courier service, or (iii) email with request for assurance of receipt in a manner typical with respect to communications of that type, with a paper copy of the electronic communication sent immediately thereafter by delivery method provided for in (i) or (ii) above.
- (b) Except as otherwise specifically provided in this Agreement, notices are treated as made and correspondence received as follows (all times being local to the place of delivery or receipt):
  - (i) If by recognized overnight express delivery, the Business Day following the day when sent.
  - (ii) If by hand delivery and if delivered on a Business Day after 9:00 a.m. and no later than three hours before the close of customary business hours of the recipient, when delivered. Otherwise, at the opening of the then next Business Day.
  - (iii) If by email, delivery is followed by either method provided for in Section 12.8(b)(i) or Section 12.8(b)(ii) by the next Business Day.

## EXECUTION VERSION

- (c) Rejection or refusal to accept delivery and inability to deliver because of a changed address or facsimile number for which no due notice was given are each treated as receipt of the notice sent.

12.9 **Conflicting Provisions.** Anything contained in any other agreement referred to in this Agreement or in any other agreement now existing between Lender and any Loan Party to the contrary notwithstanding, if there is a conflict between the terms and provisions of any other agreement and those contained in this Agreement, Lender may in its Discretion choose which term or provision governs and controls.

12.10 **Partial Invalidity.** The unenforceability for any reason of any provision of this Agreement does not impair or limit the operation or validity of any other provisions of this Agreement or any other existing or future agreements between Lender and any Loan Party.

12.11 **Setoff.** In addition to any rights and remedies of Lender provided by law, Lender has the right, without prior written notice to Loan Parties, any required notice being expressly waived by Loan Parties to the extent not prohibited by applicable law, when an Event of Default occurs, to set off and apply against any Obligations, whether matured or unmatured, of Loan Parties to Lender, any amount owing by Lender to any Loan Party, at any time after the happening of any of the above mentioned events, and such right of setoff may be exercised by Lender against Loan Parties or against any assignee for the benefit of creditors, receiver, or execution, judgment or attachment creditor of any Loan Party, or against anyone else claiming through or against any Loan Party or such assignee for the benefit of creditors, receiver, or execution, judgment or attachment creditor, notwithstanding the fact that the right of setoff has not been exercised by Lender before the making, filing or issuance or service upon Lender of, or of notice of, assignment for the benefit of creditors, appointment or application for the appointment of a receiver, or issuance of execution, subpoena or order or warrant.

12.12 **No Marshalling.** Each Loan Party, on its own behalf and on behalf of its successors and assigns, expressly waives all rights to require a marshalling of assets by Lender or to require that Lender first resort to some or any portion of the Collateral before foreclosing upon, selling, or otherwise realizing on any other portion thereof.

12.13 **Reinstatement of Obligations and Security.** To the extent that Loan Parties make a payment to Lender or Lender receives any payment(s) or Proceeds of Accounts or other Collateral for Loan Parties' benefit, which payment(s) or Proceeds or any part thereof are subsequently invalidated, declared to be fraudulent or preferential, set aside, and/or required to be repaid to a trustee, receiver, or any other party under any bankruptcy law, state or federal law, common law or equitable doctrine, then, to the extent of such payment(s) or Proceeds received, Loan Parties' Obligations or part thereof intended to be satisfied thereby will be reinstated and continue in full force and effect, and all collateral security therefor will remain in full force and effect (or be reinstated), as if such payment(s) or Proceeds had not been received by Lender, and an appropriate adjustment to Loan Parties' balance may be recorded, until payment has been made to Lender, which payment will be due on demand.

12.14 **Survival; Reliance.** All agreements, representations, and warranties made in this Agreement (and all agreements referred to or incorporated into this Agreement) survive the

## EXECUTION VERSION

execution of this Agreement (and all documents and agreements referred to or incorporated into this Agreement) and the making of the Loans and the execution and delivery of any notes. Notwithstanding anything in this Agreement (or any documents or agreements referred to or incorporated into this Agreement) to the contrary, no investigation or inquiry by any party with respect to any matter that is the subject of any representation, warranty, covenant, or other agreement set forth in this Agreement or therein is intended, nor may it be interpreted, to limit, diminish or otherwise affect the full scope and effect of any such representation, warranty, covenant, or other agreement. All terms, covenants, agreements, representations and warranties of Loan Parties made in any Loan Document, or in any certificate or other document delivered in connection with this Agreement or the other Loan Documents are to be treated as material and to have been relied upon by Lender, notwithstanding any investigation heretofore or hereafter made by Lender or its agents.

12.15 **Interpretation.** This Agreement (and all agreements referred to or incorporated into this Agreement) is being entered into among competent persons, who are experienced in business and represented by counsel (or have had the opportunity to be represented by counsel), and has been reviewed by the parties and their counsel. Therefore, any ambiguous language in this Agreement and the other Loan Documents should not necessarily be construed against any particular party as the drafter of the language.

12.16 **Independence of Covenants.** All covenants hereunder are independent of one another so that if a particular action or condition is not permitted by any covenant, the fact that it would be permitted by an exception to, or would otherwise be within the limitations of, another covenant does not avoid the occurrence of a Default or an Event of Default if the action is taken or the condition exists.

12.17 **Communication with Accountants.** Loan Parties authorize Lender to communicate directly with their independent certified public accountants, and authorize all accountants to make available to Lender all financial statements and other supporting financial documents and schedules with respect to the Loan Parties' business, financial condition, and other affairs.

12.18 **Copies and Facsimiles.** Each Loan Document and all documents and papers that relate thereto that have been or may be in the future furnished by or to Lender may be reproduced by any photographic, xerographic, digital imaging, or other process, and Lender may destroy any document so reproduced. Any reproduction is admissible in evidence as the original itself in any judicial or administration proceeding (whether or not the original is in existence and whether or not the reproduction was made in the regular course of business). Any facsimile that bears proof of transmission is binding on the party for which or on whose behalf the transmission was initiated and likewise is admissible in evidence as if the original of the facsimile had been delivered to the party for which or on whose behalf such transmission was received.

12.19 **Communication with Customers.** Loan Parties authorize Lender to communicate directly with their respective customers regarding Loan Parties and Loan Parties' business relationship and authorize Lender to obtain, and the customers to provide, information and documentation regarding Loan Parties' performance of each of their contracts, purchase

## EXECUTION VERSION

orders, and other obligations to such customers. The foregoing does not limit, in any way, Lender's right to communicate with customers for purposes of verifying Accounts.

12.20 **Patriot Act**. Lender is subject to the requirements of the Patriot Act and notifies the Loan Parties that under the requirements of the Patriot Act, it is required to obtain, verify and record information that identifies Loan Parties, which information includes the Loan Parties' name and address and other information to allow Lender to identify the Loan Parties in accordance with the Patriot Act.

12.21 **Entire Agreement of the Parties**. This Agreement, including all agreements referred to or incorporated into this Agreement and all recitals in this Agreement (which recitals are incorporated as covenants of the parties), constitute the entire agreement between the parties relating to the subject matter of this Agreement. This Agreement supersedes all prior agreements, commitments and understandings between the parties relating to the subject matter of this Agreement and cannot be changed or terminated orally, and is effective as of the date noted above.

12.22 **LOAN PARTIES' ACKNOWLEDGMENT**. THIS AGREEMENT HAS BEEN FREELY AND VOLUNTARILY ENTERED INTO WITH THE LENDER BY LOAN PARTIES, WITHOUT ANY DURESS OR COERCION, AND AFTER LOAN PARTIES HAVE CONSULTED WITH COUNSEL, AND EACH LOAN PARTY ACKNOWLEDGES THAT IT HAS CAREFULLY AND COMPLETELY READ AND UNDERSTANDS ALL OF THE TERMS AND PROVISIONS OF THIS AGREEMENT.

12.23 **SUBMISSION TO JURISDICTION AND VENUE**. ANY JUDICIAL PROCEEDING BY LOAN PARTIES OR LENDER INVOLVING, DIRECTLY OR INDIRECTLY, ANY MATTER OR CLAIM IN ANY WAY ARISING OUT OF, RELATED TO OR CONNECTED WITH THIS AGREEMENT OR ANY PRESENT OR FUTURE AGREEMENT BETWEEN LOAN PARTIES AND LENDER, MAY BE BROUGHT ONLY IN A FEDERAL COURT LOCATED IN THE STATE OF OHIO OR IN STATE COURTS IN CUYAHOGA COUNTY, OHIO; PROVIDED THAT THE FOREGOING DOES NOT APPLY TO THE EXTENT LENDER IS REQUIRED BY APPLICABLE LAW TO BRING AN ACTION IN ANOTHER JURISDICTION FOR PURPOSES OF FORECLOSING ITS INTEREST IN ANY COLLATERAL. BY EXECUTION AND DELIVERY OF THIS AGREEMENT, LOAN PARTIES AND LENDER ACCEPT FOR THEMSELVES AND IN CONNECTION WITH THEIR RESPECTIVE PROPERTIES, GENERALLY AND UNCONDITIONALLY, THE JURISDICTION OF THE REFERENCED COURTS, AND IRREVOCABLY AGREE TO BE BOUND BY ANY FINAL JUDGMENT RENDERED THEREBY IN CONNECTION WITH THIS AGREEMENT, OR ANY OTHER PRESENT AND FUTURE AGREEMENT BETWEEN LOAN PARTIES AND LENDER. LOAN PARTIES AND LENDER WAIVE ANY OBJECTION TO JURISDICTION AND VENUE OF ANY ACTION INSTITUTED HEREUNDER OR IN CONNECTION HERewith AND MAY NOT ASSERT ANY DEFENSE BASED ON LACK OF JURISDICTION OR VENUE OR BASED UPON FORUM NON CONVENIENS. AN ORIGINAL COUNTERPART OR A COPY OF THIS AGREEMENT MAY BE FILED WITH ANY COURT AS WRITTEN



EXECUTION VERSION

**EVIDENCE OF THE WAIVERS AND CONSENTS CONTAINED IN THIS AGREEMENT.**

**12.24 WAIVER OF JURY TRIAL. LOAN PARTIES AND LENDER EACH ACKNOWLEDGE THAT THE RIGHT TO TRIAL BY JURY IS A CONSTITUTIONAL ONE, BUT THAT IT MAY BE WAIVED. LENDER AND LOAN PARTIES, AFTER CONSULTING COUNSEL OF THEIR CHOICE, EACH KNOWINGLY AND VOLUNTARILY, WITHOUT COERCION, WAIVE ALL RIGHTS TO A TRIAL BY JURY OF ALL DISPUTES BETWEEN THEM. NEITHER LOAN PARTIES NOR LENDER ARE TO BE TREATED AS HAVING GIVEN UP THIS WAIVER OF JURY TRIAL UNLESS THE RELINQUISHMENT IS IN A WRITTEN INSTRUMENT SIGNED BY THE PARTY TO BE CHARGED.**

**12.25 POWER TO CONFESS JUDGMENT. THE BORROWERS HEREBY IRREVOCABLY AUTHORIZES ANY ATTORNEY-AT-LAW, INCLUDING AN ATTORNEY EMPLOYED BY OR RETAINED AND PAID BY THE LENDER, TO APPEAR IN ANY COURT OF RECORD IN OR OF THE STATE OF OHIO, OR IN ANY OTHER STATE OR TERRITORY OF THE UNITED STATES, AT ANY TIME AFTER THE INDEBTEDNESS EVIDENCED BY THIS AGREEMENT BECOMES DUE, WHETHER BY ACCELERATION OR OTHERWISE, TO WAIVE THE ISSUING AND SERVICE OF PROCESS AND TO CONFESS A JUDGMENT AGAINST THE BORROWERS, JOINTLY OR SEVERALLY, IN FAVOR OF LENDER, AND/OR ANY ASSIGNEE OR HOLDER HEREOF FOR THE AMOUNT OF PRINCIPAL AND INTEREST AND EXPENSES THEN APPEARING DUE FROM THE BORROWERS, JOINTLY AND SEVERALLY, UNDER THIS AGREEMENT, TOGETHER WITH COSTS OF SUIT AND THEREUPON TO RELEASE ALL ERRORS AND WAIVE ALL RIGHT OF APPEAL OR STAYS OF EXECUTION IN ANY COURT OF RECORD. EACH BORROWER HEREBY EXPRESSLY (I) WAIVES ANY CONFLICT OF INTEREST OF THE ATTORNEY(S) RETAINED BY THE LENDER TO CONFESS JUDGMENT AGAINST SUCH BORROWER UPON THIS AGREEMENT, AND (II) CONSENTS TO THE RECEIPT BY SUCH ATTORNEY(S) OF A REASONABLE LEGAL FEE FROM LENDER FOR LEGAL SERVICES RENDERED FOR CONFESSING JUDGMENT AGAINST THE BORROWERS, JOINTLY OR SEVERALLY, UPON THIS AGREEMENT. A COPY OF THIS AGREEMENT, CERTIFIED BY LENDER, MAY BE FILED IN EACH SUCH PROCEEDING IN PLACE OF FILING THE ORIGINAL AS A WARRANT OF ATTORNEY.**

[Remainder of Page Intentionally Blank – Signature Page Follows]

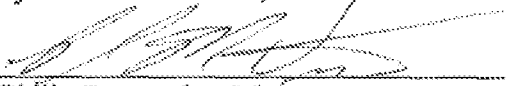
This Agreement has been duly executed as of the day and year first written above in Summit County, Ohio.

**BORROWERS:**

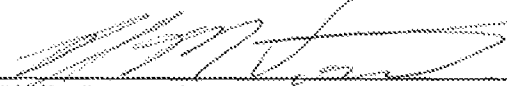
**WARNING-BY SIGNING THIS PAPER YOU GIVE UP YOUR RIGHT TO NOTICE AND COURT TRIAL. IF YOU DO NOT PAY ON TIME A COURT JUDGMENT MAY BE TAKEN AGAINST YOU WITHOUT YOUR PRIOR KNOWLEDGE AND THE POWERS OF A COURT CAN BE USED TO COLLECT FROM YOU REGARDLESS OF ANY CLAIMS YOU MAY HAVE AGAINST THE CREDITOR WHETHER FOR RETURNED GOODS, FAULTY GOODS, FAILURE ON HIS PART TO COMPLY WITH THE AGREEMENT, OR ANY OTHER CAUSE.**

**WHOLESALE DÉCOR LLC**  
an Ohio limited liability company

By: DeoGratias LLC, its sole member

By:   
Philip Daetwyler, Manager

**DEOGRATIAS LLC**  
an Ohio limited liability company

By:   
Philip Daetwyler, Manager

**LENDER:**

**WOODFOREST NATIONAL BANK**

By: \_\_\_\_\_  
Todd A. Seehase, First Vice President

This Agreement has been duly executed as of the day and year first written above in \_\_\_\_\_ County, Ohio.

**BORROWERS:**

**WARNING-BY SIGNING THIS PAPER YOU GIVE UP YOUR RIGHT TO NOTICE AND COURT TRIAL. IF YOU DO NOT PAY ON TIME A COURT JUDGMENT MAY BE TAKEN AGAINST YOU WITHOUT YOUR PRIOR KNOWLEDGE AND THE POWERS OF A COURT CAN BE USED TO COLLECT FROM YOU REGARDLESS OF ANY CLAIMS YOU MAY HAVE AGAINST THE CREDITOR WHETHER FOR RETURNED GOODS, FAULTY GOODS, FAILURE ON HIS PART TO COMPLY WITH THE AGREEMENT, OR ANY OTHER CAUSE.**

**WHOLESALE DÉCOR LLC**  
an Ohio limited liability company

**DEOGRATIAS LLC**  
an Ohio limited liability company

By: DeoGratias LLC, its sole member

By: \_\_\_\_\_  
Philip Daetwyler, Manager

By: \_\_\_\_\_  
Philip Daetwyler, Manager

**LENDER:**

**WOODFOREST NATIONAL BANK**

By: \_\_\_\_\_  
Todd A. Seehase, First Vice President





Customer	Sum of Open Balance
[REDACTED]	[REDACTED]
Grand Total	[REDACTED]

**SCHEDULE 2.1.2**  
**"NEOFILL ASSETS"**

1. Personal property transferred from Northeast Ohio Fulfillment Center, LLC, an Ohio limited liability company, to Wholesale Décor LLC, an Ohio limited liability company, pursuant to that certain Intellectual Property Assignment, dated effective September 22, 2016, by and between Northeast Ohio Fulfillment Center, LLC and Wholesale Décor LLC, including the following:

A. Domain Name: WWW.HALFOFFDEALS.COM

2. Personal property transferred from James Varga to Wholesale Décor LLC, an Ohio limited liability company, pursuant to that certain Intellectual Property Assignment, dated effective September 1, 2016, by and between James Varga and Wholesale Décor LLC, including the following:

A. An e-mail database consisting of 309,739 consumer email addresses as of September 2016. The e-mail database is maintained on third party contract servers for the purpose of e-mail blasting internet retail promotions. The recipient of an e-mail blast is directed to a link that, when opened, takes the recipient to the [www.halffdeals.com](http://www.halffdeals.com) website.

B. Platform Software:

Half off Deals is a custom built software platform built on an archetypal ecommerce model of web services built using four open-source components:

The Linux operating system, the Apache HTTP Server, theMySQL relational database management system (RDBMS), and the PHP programming language.

The lamp components are largely interchangeable and not limited to the original selection. As a solution stack, Half Off Deals is suitable for building multiple dynamic ecommerce web sites and web applications on the fly. Specific solutions are required for websites that serve large numbers of requests, or provide services that demand high uptime. Half Off Deals high-availability approaches with the lamp stack involves multiple web and database servers, combined with additional components that perform logical aggregation of resources provided by each of the servers, as well as distribution of the workload across multiple servers.

With the aggregation of web servers Half Off Deals is built with a load balancer in front of them for the aggregation of database servers, MySQL provides internal replication mechanisms that implement a master/slave relationship between the original database (master) and its copies (slaves).

With Half Off Deals high-availability ecommerce solution setups are also improved utilizing lamp instances by providing various forms of redundancy, making it possible for a certain number of components (separate servers) to experience downtime without interrupting the users of services provided by the Half Off Deals instance as a whole. Such redundant setups also handle hardware failures resulting in data loss on individual servers in a way that prevents collectively stored data from actually becoming lost. Beside higher availability, Half Off Deals is

capable of providing almost linear improvements in performance for services having the number of internal database read operations much higher than the number of write/update operations to perform 1,000 of transactions per second.



**SCHEDULE 2.1.3**  
**"PERMITTED INDEBTEDNESS"**

1. SUBORDINATED PROMISSORY NOTE in the aggregate principal amount of [REDACTED] dated September 22, 2016, executed and delivered by Wholesale Décor LLC to Mark and Terry Harbarger.
2. SUBORDINATED PROMISSORY NOTE in the aggregate principal amount of [REDACTED] dated September 22, 2016, executed and delivered by Wholesale Décor LLC to Mark N. and Terry Harbarger.
3. PROMISSORY NOTE in the aggregate principal amount [REDACTED] dated September 22, 2016, executed and delivered by Wholesale Décor LLC to Jeff Koncz.
4. SUBORDINATED PROMISSORY NOTE in the aggregate principal amount of [REDACTED] dated September 22, 2016, executed and delivered by Wholesale Décor LLC to Jeff Koncz.
5. SUBORDINATED PROMISSORY NOTE in the aggregate principal amount of [REDACTED] dated September 20, 2016, executed and delivered by Wholesale Décor LLC to John Hershberger.

SCHEDULE 2.1.4  
"PERMITTED LIENS"

None.

**SCHEDULE 2.1.5**  
**"SUBORDINATED INDEBTEDNESS"**

1. SUBORDINATED PROMISSORY NOTE in the aggregate principal amount of [REDACTED] dated September 22, 2016, executed and delivered by Wholesale Décor LLC to Mark and Terry Harbarger.
2. SUBORDINATED PROMISSORY NOTE in the aggregate principal amount of [REDACTED] dated September 22, 2016, executed and delivered by Wholesale Décor LLC to Mark N. and Terry Harbarger.
3. SUBORDINATED PROMISSORY NOTE in the aggregate principal amount of [REDACTED] dated September 22, 2016, executed and delivered by Wholesale Décor LLC to Jeff Koncz.
4. PROMISSORY NOTE in the aggregate principal amount of [REDACTED] dated September 22, 2016, executed and delivered by Wholesale Décor LLC to Jeff Koncz.
5. SUBORDINATED PROMISSORY NOTE in the aggregate principal amount of [REDACTED] dated September 20, 2016, executed and delivered by Wholesale Décor LLC to John Hershberger.

SCHEDULE 6.8

LEGAL NAME; EMPLOYER IDENTIFICATION NUMBER

DEOGRATIAS LLC

EMPLOYER IDENTIFICATION NUMBER: 81-3014398

WHOLESALE DÉCOR LLC

EMPLOYER IDENTIFICATION NUMBER: 81-3059018

ADDITIONAL TRADE NAMES: Ohio Wholesale, Inc.

OWI

JUST BECAUSE . . . STUDIOS

Kennedy's Country Designs

Homeland Basket Company

Homeland Candle Company

Countryside Finds Wholesale Cash & Carry

Countryside Finds

Kennedy's Country

Kennedy's Designs

Kennedy's Country Collection

TRADEMARK

REEL: 005952 FRAME: 0782

SCHEDULE 6.12  
PRINCIPAL PLACE OF BUSINESS; COLLATERAL LOCATIONS

DEOGRATIAS LLC

650 S. PROSPECT AVE., HARTVILLE, OHIO 44632

286 WEST GREENWICH RD, SEVILLE OHIO 44273

WHOLESALE DÉCOR LLC

650 S. PROSPECT AVE., HARTVILLE, OHIO 44632

286 WEST GREENWICH RD, SEVILLE OHIO 44273

**SCHEDULE 6.15**  
**INTELLECTUAL PROPERTY**

(a) Trade Names

1. Kennedy's Country Designs, Registration Number 1385241, Ohio Secretary of State, filed February 5, 2013.
2. Homeland Basket Company, Registration Number 1385245, Ohio Secretary of State, filed February 5, 2013.
3. Homeland Candle Company, Registration Number 1385242, Ohio Secretary of State, filed February 5, 2013.
4. Countryside Finds Wholesale Cash & Carry, Registration Number 1385243, Ohio Secretary of State, filed February 5, 2013.
5. Countryside Finds, Registration Number 1385244, Ohio Secretary of State, filed February 5, 2013.
6. Kennedy's Country, Registration Number 1392554, Ohio Secretary of State, filed February 28, 2013.
7. Kennedy's Designs, Registration Number 1389919, Ohio Secretary of State, filed February 28, 2013.
8. Kennedy's Country Collection, Registration Number 1420691, Ohio Secretary of State, filed August 6, 2013.
9. Wholesale Décor LLC, Registration Number 3906811, Ohio Secretary of State, filed May 23, 2016.
10. DeoGratias LLC, Registration Number 3906812, Ohio Secretary of State, filed May 23, 2016.

(b) Copyrights

No.	Owner	Full Title	Copyright Number	Date
1	Ohio Wholesale, Inc.	1999 Swags and garlands.	VAu000524204	2002
2	Ohio Wholesale, Inc.	99 nautical, lighthouse line.	VAu000490434	2000
3	Ohio Wholesale, Inc.	All Seasons All Products 2014 Collection Vol. 4.	TX0007937566	2014
4	OHIO WHOLESALÉ, INC.	ALL SEASONS ALL PRODUCTS VOL 4 2013.	TX0007744148	2013
5	Ohio Wholesale, Inc.	American pride 2002.	VAu000562813	2002
6	Ohio Wholesale, Inc.	Americana design collection, 2003/2004 : no. 24200-24201, 25155, 24989 ... [et al.]	VAu000585683	2003
7	Ohio Wholesale, Inc.	Americana design collection no. 1, 2003/2004.	VAu000570780	2003
8	Ohio Wholesale, Inc.	Americana E spring 2001 line.	VAu000512556	2001
9	Ohio Wholesale, Inc.	Americana pride 2003 : collection 1.	VAu000570477	2002
10	Ohio Wholesale, Inc.	Angel collection, 2003/2004 : no. 24602, 24995, 256161 ... [et al.]	VAu000585682	2003

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11	Ohio Wholesale, Inc.	Angel collection no. 1, 2003/2004.	VAu000570788	2003
12	Ohio Wholesale, Inc.	Angels 1, 2002.	VAu000554064	2002
13	Ohio Wholesale, Inc.	Angels 2003 : collection 2.	VAu000570408	2002
14	Ohio Wholesale, Inc.	Angels 2003 : collection 3.	VAu000564141	2002
15	Ohio Wholesale, Inc.	Angels/Fairies 2002 : collection 4.	VAu000570473	2002
16	Ohio Wholesale, Inc.	Angels : fall 2001.	VAu000534333	2001
17	Ohio Wholesale, Inc.	Anyone fore golf 2002.	VAu000562816	2002
18	Ohio Wholesale, Inc.	Apple check collection, 1999.	VAu000534240	2001
19	Ohio Wholesale, Inc.	Apple check collection-2000.	VAu000530089	2001
20	Ohio Wholesale, Inc.	Apple check gift line : no. 99221, 99215, 99199 ... [et al.]	VAu000450805	1999
21	OHIO WHOLESALE INC	APPLE TREE - 31542/31543.	VAu000983443	2007
22	Ohio Wholesale, Inc.	Apples for sale : no. C00039, & other sculptures.	VAu000582360	2003
23	Ohio Wholesale, Inc.	Autumn 2002.	VAu000554060	2002
24	Ohio Wholesale, Inc.	Bath collection 2003 : collection 2.	VAu000566537	2002
25	Ohio Wholesale, Inc.	Beach collection, 2003/2004.	VAu000570790	2003
26	Ohio Wholesale, Inc.	Beach E spring 2001 line.	VAu000512554	2001
27	Ohio Wholesale, Inc.	Beautiful basket art 2002.	VAu000563685	2002
28	Ohio Wholesale, Inc.	Beautiful basket art 2003 : collection 2.	VAu000570409	2002
29	Ohio Wholesale, Inc.	Beautiful basket art 2003 : collection 3.	VAu000570476	2002
30	Ohio Wholesale, Inc.	Beautifully beaded accessories.	VAu000563683	2002
31	Ohio Wholesale, Inc.	Berry cherry fruit line 2002.	VAu000562811	2002
32	Ohio Wholesale, Inc.	Billy's antique line 2003 : collection 2.	VAu000570475	2002
33	Ohio Wholesale, Inc.	Billy's antiques line 2002.	VAu000562812	2002
34	Ohio Wholesale, Inc.	Birdhouse collection, 2003/2004.	VAu000570777	2003
35	Ohio Wholesale, Inc.	Birdhouse collection no. 1 2003/2004.	VAu000582361	2003
36	Ohio Wholesale, Inc.	Birdhouse village assortment.	VAu000411341	1998
37	Ohio Wholesale, Inc.	Birdhouses 2002.	VAu000562830	2002
38	Ohio Wholesale, Inc.	Birdhouses 2003 : collection 2.	VAu000570492	2002
39	Ohio Wholesale, Inc.	Blissful blue design collection, 2003/2004 : no. 25035-25036, 25146, 25180.	VAu000585674	2003
40	Ohio Wholesale, Inc.	Blissful blue design collection 1 2003/2004.	VAu000582362	2003
41	Ohio Wholesale, Inc.	Blissfully blue 2003 : collection 2.	VAu000570410	2002
42	Ohio Wholesale, Inc.	Blissfully blue 2003 : collection 3.	VAu000570491	2002
43	Ohio Wholesale, Inc.	Boat bums live here : no. 25469, and other sculptures.	VAu000582348	2003
44	Ohio Wholesale, Inc.	Bob's carved designs 2000 : collection 1.	VAu000495004	2000
45	Ohio Wholesale, Inc.	Bob's carved fish signs.	VAu000493666	2000

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46	Ohio Wholesale, Inc.	Bob's carved wood designs--98.	VAu000493886	2000
47	Ohio Wholesale, Inc.	Bob's carved wood designs--99.	VAu000493340	2000
48	Ohio Wholesale, Inc.	Bob's carved wood plaques ; 2001.	VAu000534332	2001
49	Ohio Wholesale, Inc.	Bob's wooden fish carvings.	VAu000434286	1999
50	Ohio Wholesale, Inc.	Boos Halloween 1999.	VAu000524203	2002
51	Ohio Wholesale, Inc.	Canadian maple 2002.	VAu000554062	2002
52	Ohio Wholesale, Inc.	Carved snowman, 1999.	VAu000504060	2000
53	Ohio Wholesale, Inc.	Carved wood moose designs--1998 : collection 1.	VA0001160324	1998
54	Ohio Wholesale, Inc.	Carved wood outdoor designs.	VAu000492829	2000
55	Ohio Wholesale, Inc.	Carved wood outdoor designs collection 2, 1999.	VAu000510687	2001
56	Ohio Wholesale, Inc.	Cast iron series 1.	VAu000562066	2002
57	Ohio Wholesale, Inc.	Cat collection : no. 20396, 20500, 20591 ... [et al.]	VAu000490298	2000
58	Ohio Wholesale, Inc.	Cat design.	VAu000608628	2003
59	Ohio Wholesale, Inc.	Cat design collection 1998.	VAu000599048	2003
60	Ohio Wholesale, Inc.	Cat design collection, 2003/2004.	VAu000570775	2003
61	OHIO WHOLESALE, INC.	CHERRY TREE - 29571.	VAu000983442	2007
62	Ohio Wholesale, Inc.	Chicken collection, 2003/2004.	VAu000570776	2003
63	Ohio Wholesale, Inc.	Chicken : fall 2001.	VAu000534334	2001
64	Ohio Wholesale, Inc.	Christmas design collection, 2003/2004 : no. X42122, X42163, X42193 ... [et al.]	VAu000585672	2003
65	Ohio Wholesale, Inc.	Christmas design collection no. 1, 2003/2004.	VAu000570786	2003
66	Ohio Wholesale, Inc.	Christmas : fall 2001.	VAu000534331	2001
67	Ohio Wholesale, Inc.	Christmas fall 2001 : collection 2.	VAu000534329	2001
68	Ohio Wholesale, Inc.	Christmas season 2002.	VAu000562826	2002
69	Ohio Wholesale, Inc.	Christmas season 2003 : collection 3.	VAu000570478	2002
70	Ohio Wholesale, Inc.	Christmas season 2003, collection II : no. X42128, X42150, X42154 ... [et al.]	VAu000564556	2002
71	Ohio Wholesale, Inc.	Commerative frame and ornaments, 2002 : no. 24311-24312.	VAu000541442	2002
72	Ohio Wholesale, Inc.	Country design, 2003/2004 : no. 25209, 25138-25139, 25159 ... [et al.]	VAu000585671	2003
73	Ohio Wholesale, Inc.	Country home accents 2002.	VAu000562822	2002
74	Ohio Wholesale, Inc.	Daisey/birdhouse miniature collection.	VA0000922202	1997
75	Ohio Wholesale, Inc.	Dog design collection 2003/2004.	VAu000570770	2003
76	Ohio Wholesale, Inc.	Donna's wood angels, 2000.	VAu000508456	2000
77	Ohio Wholesale, Inc.	Donna's wood designs 1999.	VAu000501933	2000
78	Ohio Wholesale, Inc.	Down on the farm 2002.	VAu000562814	2002



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79	Ohio Wholesale, Inc.	Down on the farm 2003 : collection 2.	VAu000570479	2002
80	Ohio Wholesale, Inc.	E-spring Americana line 2002.	VAu000534654	2002
81	Ohio Wholesale, Inc.	E-spring garden line 2002.	VAu000535436	2002
82	Ohio Wholesale, Inc.	E-spring whitewash and antiqued line 2002.	VAu000535435	2002
83	Ohio Wholesale, Inc.	E-spring whitewash angels 2002.	VAu000534653	2002
84	Ohio Wholesale, Inc.	E-spring whitewashed garden line 2002.	VAu000534652	2002
85	OHIO WHOLESALE, INC	EASTER EGG TREE - X43800.	VAu000983444	2007
86	Ohio Wholesale, Inc.	Embossed tin and wood accessories 2002.	VAu000562815	2002
87	Ohio Wholesale, Inc.	Espring-fall Americana line.	VAu000554410	2002
88	Ohio Wholesale, Inc.	Every bunny loves some bunny sometime! : no. 25620, 25621.	VAu000582358	2003
89	Ohio Wholesale, Inc.	Everyday design collection, 2003/2004 : no. 24887, 24988, 25000 ... [et al.]	VAu000585670	2003
90	Ohio Wholesale, Inc.	Everything floral 2002.	VAu000562829	2002
91	Ohio Wholesale, Inc.	Everything floral 2003 : collection 2.	VAu000570406	2002
92	Ohio Wholesale, Inc.	Everything floral 2003 : collection 3.	VAu000570480	2002
93	Ohio Wholesale, Inc.	Fall 2002 Christmas collection.	VAu000554414	2002
94	Ohio Wholesale, Inc.	Fall 2002 redneck collection.	VAu000554412	2002
95	Ohio Wholesale, Inc.	Feed & grain.	VA0000906368	1996
96	Ohio Wholesale, Inc.	Fish blocks : no. 99247, & other sculptures & artworks.	VAu000493652	2000
97	Ohio Wholesale, Inc.	Fishing design collection, 2003/2004.	VAu000570781	2003
98	Ohio Wholesale, Inc.	Fishing desing collection 1999.	VAu000599053	2003
99	Ohio Wholesale, Inc.	Fishing E spring 2001 line.	VAu000509663	2001
100	Ohio Wholesale, Inc.	Frame collection 2003/2004.	VAu000570771	2003
101	Ohio Wholesale, Inc.	Funny plaques & signs 2003 : collection 1.	VAu000570490	2002
102	Ohio Wholesale, Inc.	Funny plaques 2002.	VAu000562825	2002
103	Ohio Wholesale, Inc.	Furry friends 2002.	VAu000562818	2002
104	Ohio Wholesale, Inc.	Furry friends 2003 : collection 2.	VAu000570488	2002
105	Ohio Wholesale, Inc.	Garden design collection, 2003/2004 : no. 25217, 25223, 25225 ... [et al.]	VAu000585673	2003
106	Ohio Wholesale, Inc.	Garden design collection no. 1, 2003/2004.	VAu000570778	2003
107	Ohio Wholesale, Inc.	Garden gate collection.	VAu000495395	2000
108	Ohio Wholesale, Inc.	Garden girls 2002.	VAu000554059	2002
109	Ohio Wholesale, Inc.	Golf collection, 2003/2004.	VAu000570782	2003
110	Ohio Wholesale, Inc.	Golfing E spring 2001 line.	VAu000512555	2001
111	Ohio Wholesale, Inc.	Good house keeping 2002.	VAu000562820	2002
112	Ohio Wholesale, Inc.	Good housekeeping 2003 : collection 2.	VAu000570489	2002

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113	Ohio Wholesale, Inc.	Grandma (pa) collection no. 1, 2003/2004.	VAu000570774	2003
114	Ohio Wholesale, Inc.	Grandma's & Grandpa's place : no. 25470, and other sculptures.	VAu000582344	2003
115	Ohio Wholesale, Inc.	Great outdoors 2002.	VAu000562823	2002
116	Ohio Wholesale, Inc.	Great outdoors 2003 : collection 2.	VAu000570407	2002
117	Ohio Wholesale, Inc.	Great outdoors 2003 : collection 3.	VAu000570486	2002
118	Ohio Wholesale, Inc.	Halloween design collection, 2003/2004 : no. X42091.	VAu000585679	2003
119	Ohio Wholesale, Inc.	Halloween/fall collection 1999.	VAu000490999	2000
120	Ohio Wholesale, Inc.	Halloween/fall II collection 1999.	VAu000489407	2000
121	Ohio Wholesale, Inc.	Halloween greetings 2002.	VAu000562831	2002
122	Ohio Wholesale, Inc.	Halloween/harvest 2003 : collection 2.	VAu000564137	2002
123	Ohio Wholesale, Inc.	Hangin' on signs 2003 : collection 2.	VAu000564140	2002
124	Ohio Wholesale, Inc.	Hangin' on signs 2003 : collection 3.	VAu000570485	2002
125	Ohio Wholesale, Inc.	Hanging on signs 2002.	VAu000562828	2002
126	Ohio Wholesale, Inc.	Harvest/apple/kitchen line 2003 : collection 2.	VAu000564142	2002
127	Ohio Wholesale, Inc.	Harvest collection II : 2003/2004.	VAu000589574	2003
128	Ohio Wholesale, Inc.	Harvest fall 2001.	VAu000534330	2001
129	Ohio Wholesale, Inc.	Hickory Farms : no. C00018.	VAu000582352	2003
130	Ohio Wholesale, Inc.	Home sweet home 2002.	VAu000554063	2002
131	Ohio Wholesale, Inc.	Homeland Basket Company : an Ohio Wholesale, Inc. company 2003 collection.	TX0005755585	2003
132	Ohio Wholesale, Inc.	Homeland Candle Company label.	VAu000575161	2003
133	Ohio Wholesale, Inc.	Hometown windows, & other sculpture collections.	VAu000500891	2000
134	Ohio Wholesale, Inc.	Hunters gather here : no. 25317, and 1 other sculpture.	VAu000582356	2003
135	Ohio Wholesale, Inc.	I started out with nothing--I have : no. C00088, and other sculptures.	VAu000582346	2003
136	Ohio Wholesale, Inc.	In the country 2003 : collection 2.	VAu000570484	2002
137	Ohio Wholesale, Inc.	In the garden 2002.	VAu000562817	2002
138	Ohio Wholesale, Inc.	In the garden 2003 : collection 2.	VAu000570493	2002
139	Ohio Wholesale, Inc.	Ivy pattern painting design.	VAu000421941	1998
140	Ohio Wholesale, Inc.	Kennedy's Country Collection New Spring 2013 Collection Vol 1 2013.	TX0007655118	2012
141	OHIO WHOLESAL INC.	KENNEDY'S COUNTRY COLLECTION SPRING & SUMMER 2009 VOLUME 1.	TX0007326579	2009
142	OHIO WHOLESAL INC.	KENNEDY'S COUNTRY COLLECTION SPRING 2010 VOLUME 1.	TX0007206138	2010
143	Ohio Wholesale, Inc.	Kitchen collection, 2003/2004.	VAu000570789	2003

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144	Ohio Wholesale, Inc.	Kitchen collection I : 2003/2004.	VAu000589571	2003
145	Ohio Wholesale, Inc.	Kitchen collection : no. C00141.	VAu000600978	2003
146	Ohio Wholesale, Inc.	Lakefront '99.	VAu000489408	2000
147	Ohio Wholesale, Inc.	Laundry collection, 2003/2004 : no. 24954, 25237, 25239 ... [et al.]	VAu000585675	2003
148	Ohio Wholesale, Inc.	Laundry collection II : 2003/2004.	VAu000589572	2003
149	Ohio Wholesale, Inc.	Laundry collection no. 1, 2003/2004.	VAu000570779	2003
150	Ohio Wholesale, Inc.	Laundry design.	VAu000608627	2003
151	OHIO WHOLESAL INC.	LET IT SNOW : no. X43738.	VAu000962755	2007
152	Ohio Wholesale, Inc.	Lighthouse collection, 2003/2004.	VAu000570785	2003
153	Ohio Wholesale, Inc.	Mellor's birdhouses & toad house.	VAu000520811	2001
154	Ohio Wholesale, inc.	Melting snowmen : item no. 99087.	VAu000483349	1999
155	Ohio Wholesale, Inc.	Mike's carved wood blocks.	VAu000508381	2000
156	Ohio Wholesale, Inc.	Mike's carved wood Christmas trucks, 2000.	VAu000508455	2000
157	Ohio Wholesale, Inc.	Mike's carved wood trucks--2000 : no. 20927-20928, 20999.	VAu000492916	2000
158	Ohio Wholesale, Inc.	Mike's Halloween collection 2000.	VAu000510688	2001
159	Ohio Wholesale, Inc.	Mike's metal signs-2001 : no. S301- S322.	VAu000526013	2001
160	Ohio Wholesale, Inc.	Mikes metal signs, 2002.	VAu000551236	2002
161	Ohio Wholesale, Inc.	Mike's metal weathervanes.	VAu000512816	2001
162	Ohio Wholesale, Inc.	Mike's water fountains, spring 2001 : no. 21760-2162.	VAu000523963	2001
163	Ohio Wholesale, Inc.	Mike's Wood Christmas toys, summer 2001 line.	VAu000510686	2001
164	Ohio Wholesale, Inc.	Moose E spring 2001 line.	VAu000519135	2001
165	Ohio Wholesale, Inc.	Moose shelf sitter : no. 52098, & other sculptures.	VAu000490945	2000
166	Ohio Wholesale, Inc.	My husband is a reel catch : no. 25475, and other sculptures.	VAu000582345	2003
167	OHIO WHOLESAL INC	NEW SEASONAL 2014 COLLECTION VOL. 2, 2014.	TX0007854143	2014
168	Ohio Wholesale, Inc.	New Seasonal 2015 Collection Vol. 3 2015.	TX0008027852	2015
169	Ohio Wholesale, Inc.	New Seasonal 2016 Catalog Vol.2.	TX0008246032	2016
170	Ohio wholesale, Inc.	No. 99868, & other designs on sculptures.	VAu000493691	2000
171	OHIO WHOLESAL INC	OHIO WHOLESAL BRAND NEW SEASONAL 2013 COLLECTION, Vol. 2, 2013.	TX0007692898	2013
172	Ohio Wholesale, Inc.	Ohio Wholesale, Inc. All Seasons All Products 2015 Collection Vol. 5 .	TX0008119089	2015
173	Ohio Wholesale, Inc.	Ohio Wholesale, Inc. Brand New	TX0007559393	2012

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		Holiday Vol. 4, 2012.		
174	Ohio Wholesale, Inc.	Ohio Wholesale, Inc : catalog.	CSN0138500	2008
175	Ohio Wholesale, Inc.	Ohio Wholesale, Inc : catalog.	CSN0138500	2007
176	Ohio Wholesale, Inc.	Ohio Wholesale, Inc : catalog.	CSN0138500	2006
177	Ohio Wholesale, Inc.	Ohio Wholesale, Inc : catalog.	CSN0138500	2005
178	Ohio Wholesale, Inc.	Ohio Wholesale, Inc : catalog.	CSN0138500	2004
179	Ohio Wholesale, Inc.	Ohio Wholesale, Inc : catalog.	CSN0138500	2003
180	Ohio Wholesale, Inc.	Ohio Wholesale, Inc : catalog.	CSN0138500	2002
181	Ohio Wholesale, Inc	OHIO WHOLESALE, INC. EARLY SPRING 2008 VOLUME 1.	TX0006912649	2007
182	OHIO WHOLESALE, INC.	OHIO WHOLESALE, INC. EARLY SPRING 2009 VOLUME 1.	TX0007326575	2008
183	Ohio Wholesale, Inc.	OHIO WHOLESALE, INC. FALL 2008 VOLUME 8.	TX0007018944	2008
184	OHIO WHOLESALE, INC.	OHIO WHOLESALE, INC. FALL 2009 VOLUME 8.	TX0007313565	2009
185	Ohio Wholesale, Inc.	Ohio Wholesale, Inc., floral collection, vol. 2, 2003.	TX0005788745	2003
186	Ohio Wholesale, Inc.	Ohio Wholesale Inc. Harvest & Halloween. [Published: 2012-02-24. Issue: vol. Vol. 2, Summer 2012]	TX0007504196	2012
187	Ohio Wholesale, Inc.	Ohio Wholesale, Inc., New Harvest & Halloween 2011 Collection Vol 2.	TX0007344874	2011
188	OHIO WHOLESALE, INC.	OHIO WHOLESALE, INC. NEW HARVEST & HALLOWEEN VOLUME 4 2010.	TX0007167217	2010
189	Ohio Wholesale, Inc.	Ohio Wholesale, Inc. New Holiday 2011 Collection Vol. 4.	TX0007384488	2011
190	OHIO WHOLESALE, INC	OHIO WHOLESALE, INC. NEW HOLIDAY COLLECTION 2010 VOL.5.	TX0007202337	2010
191	OHIO WHOLESALE, INC.	OHIO WHOLESALE, INC. NEW SPRING 2010 VOLUME 1.	TX0007210514	2009
192	Ohio Wholesale, Inc.	Ohio Wholesale, Inc. New Spring 2011 Collection Vol I.	TX0007299675	2010
193	Ohio Wholesale, Inc.	Ohio Wholesale, Inc. New Spring 2014 Collection Vol I, 2014.	TX0007803477	2013
194	Ohio Wholesale, Inc.	Ohio Wholesale, Inc. New Spring 2015 Collection Vol. 1.	TX0007993339	2014
195	Ohio Wholesale, Inc.	Ohio Wholesale, Inc., spring 2003 : vol. 2.	TX0005672489	2002
196	Ohio Wholesale, Inc.	OHIO WHOLESALE, INC. SPRING 2008 VOLUME 3.	TX0006953346	2008
197	OHIO WHOLESALE, INC.	OHIO WHOLESALE, INC. SPRING 2009 VOLUME 4.	TX0007284699	2008
198	Ohio Wholesale, Inc.	Ohio Wholesale, Inc., summer 2003, vol. 4.	TX0005724595	2003

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199	Ohio Wholesale, Inc.	Ohio Wholesale, Inc., summer 2006, volume 6.	TX0006435684	2006
200	Ohio Wholesale, Inc.	Ohio Wholesale, Inc., summer 2007 : vol. 7.	TX0006551621	2007
201	OHIO WHOLESAL INC.	OHIO WHOLESAL INC., SUMMER COLLECTION 2009 VOLUME 6. [Published: 2009-03-19. Issue: ]	TX0007209768	2009
202	OHIO WHOLESAL INC.	OHIO WHOLESAL NEW SPRING 2013 COLLECTION VOL 1, 2013.	TX0007638580	2012
203	Ohio Wholesale, Inc.	Old fashion rose decor.	VAu000563684	2002
204	Ohio Wholesale, Inc.	Old fashion rose decor 2003 : collection 2.	VAu000566538	2002
205	Ohio Wholesale, Inc.	Old time plaques : fall 2001.	VAu000534328	2001
206	Ohio Wholesale, Inc.	Old time plaques : fall 2001, collection 2.	VAu000534327	2001
207	Ohio Wholesale, Inc.	Outdoor & garden line : fall 2001.	VAu000534335	2001
208	Ohio Wholesale, Inc.	Outdoors collection no. 1, 2003/2004.	VAu000570772	2003
209	Ohio Wholesale, Inc.	Outhouses 1999.	VAu000508454	2000
210	Ohio Wholesale, Inc.	Outhouses 2000.	VAu000508453	2000
211	Ohio Wholesale, Inc.	OWI ceiling tile designs 2002.	VAu000554058	2002
212	Ohio Wholesale, Inc.	Primitive chunky wood colleciton.	VAu000497308	2000
213	Ohio Wholesale, Inc.	Primitive grace.	VAu000534305	2002
214	Ohio Wholesale, Inc.	Pumpkins for sale : no. C00021, and other sculptures.	VAu000582354	2003
215	Ohio Wholesale, Inc.	Redneck design collection, 2003/2004 : no. 24850, 24884.	VAu000585681	2003
216	Ohio Wholesale, Inc.	Retro collection I 2002.	VAu000562819	2002
217	Ohio Wholesale, Inc.	Retro design 2003 : collection 2.	VAu000570483	2002
218	Ohio Wholesale, Inc.	Rustic E spring 2001 line.	VAu000512557	2001
219	Ohio Wholesale, Inc.	Santa, please stop here! : no. 24822, and other sculptures & art originals.	VAu000582342	2003
220	Ohio Wholesale, Inc.	Screen door shelf ( 6 asst.)	VAu000497653	2000
221	Ohio Wholesale, Inc.	Seaside : no. 25468.	VAu000582359	2003
222	Ohio Wholesale, Inc.	Season's greetings : no. X42521 and sculptures & art originals.	VAu000582353	2003
223	Ohio Wholesale, Inc.	Shabby chic design 2003 : collection 2.	VAu000570474	2002
224	Ohio Wholesale, Inc.	Shabby chic designs 2002.	VAu000563682	2002
225	OHIO WHOLESAL INC.	SNOW FLOCKED TREE - 31626 AND 31627.	VAu000983445	2007
226	Ohio Wholesale, Inc.	Snowman in birdhouse village painting design.	VAu000429783	1998
227	Ohio Wholesale, Inc.	Snowman mitten chests.	VAu000490998	2000
228	Ohio Wholesale, Inc.	Snowmen 2003 : collection 2.	VAu000564138	2002
229	Ohio Wholesale, Inc.	Snowmen 2003 : collection 3.	VAu000570482	2002

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230	Ohio Wholesale, Inc.	Snowmen of 2002.	VAu000562827	2002
231	Ohio Wholesale, Inc.	Sports collection, 2003/2004.	VAu000570783	2003
232	Ohio Wholesale, Inc.	Spring 2001 carved wood fishing.	VAu000516250	2001
233	Ohio Wholesale, Inc.	Spring 2001 chicken designs.	VAu000518915	2001
234	Ohio Wholesale, Inc.	Spring 2001 daisy pattern.	VAu000526538	2001
235	Ohio Wholesale, Inc.	Spring 2001 dragonfly designs.	VAu000526539	2001
236	Ohio Wholesale, Inc.	Spring 2001 garden designs.	VAu000526537	2001
237	Ohio Wholesale, Inc.	Spring 2001 outdoor line.	VAu000520224	2001
238	Ohio Wholesale, Inc.	Spring 2001 pots, plaques & garden stakes.	VAu000526536	2001
239	Ohio Wholesale, Inc.	Spring 2001 primitive designs.	VAu000516249	2001
240	Ohio Wholesale, Inc.	Spring 2002 Animal birdhouses.	VAu000539507	2002
241	Ohio Wholesale, Inc.	Spring 2002 Barnyard group.	VAu000539508	2002
242	Ohio Wholesale, Inc.	Spring 2002 Camping and fishing line.	VAu000539502	2002
243	Ohio Wholesale, Inc.	Spring 2002 Fairies group.	VAu000539505	2002
244	Ohio Wholesale, Inc.	Spring 2002 garden line.	VAu000539503	2002
245	Ohio Wholesale, Inc.	Spring 2002 Golf group.	VAu000539509	2002
246	Ohio Wholesale, Inc.	Spring 2002 Nautical and beach line.	VAu000539506	2002
247	Ohio Wholesale, Inc.	Spring 2002 Old fashioned lemonade, fruit and ice cream line.	VAu000539504	2002
248	Ohio Wholesale, Inc.	Spring 2002 Tatyana's veggie collection.	VAu000539501	2002
249	Ohio Wholesale, Inc.	Spring 2002 Veggie line.	VAu000539510	2002
250	Ohio Wholesale, Inc.	SPRING 2012 VOL. 1.	TX0007466547	2011
251	Ohio Wholesale, Inc.	Summer 2001 chicken line.	VAu000516094	2001
252	Ohio Wholesale, Inc.	Summer 2001 Christmas.	VAu000516101	2001
253	Ohio Wholesale, Inc.	Summer 2001 dragonfly designs.	VAu000516095	2001
254	Ohio Wholesale, Inc.	Summer 2001 fishing designs.	VAu000516097	2001
255	Ohio Wholesale, Inc.	Summer 2001 garden designs.	VAu000516098	2001
256	Ohio Wholesale, Inc.	Summer 2001 Halloween.	VAu000516100	2001
257	Ohio Wholesale, Inc.	Summer 2001 hardware collection.	VAu000516096	2001
258	Ohio Wholesale, Inc.	Summer 2001 harvest collection.	VAu000516093	2001
259	Ohio Wholesale, Inc.	Summer 2001 outdoor line.	VAu000516099	2001
260	Ohio Wholesale, Inc.	Summer 2002 apple line.	VAu000551315	2002
261	Ohio Wholesale, Inc.	Summer 2002 Christmas line.	VAu000551316	2002
262	Ohio Wholesale, Inc.	Summer 2002 fall-harvest designs.	VAu000551317	2002
263	Ohio Wholesale, Inc.	Summer 2002 Halloween line.	VAu000551314	2002
264	Ohio Wholesale, Inc.	Summer days 2002.	VAu000562824	2002
265	Ohio Wholesale, Inc.	Summer-fall 2002 angels.	VAu000554411	2002
266	Ohio Wholesale, Inc.	Summer-fall 2002 Billy Jacobs designs.	VAu000558945	2002
267	Ohio Wholesale, Inc.	Summer-fall 2002 cat collection.	VAu000554413	2002

No.	Owner	Full Title	Copyright Number	Date
268	Ohio Wholesale, Inc.	Summer-fall 2002 down home country designs.	VAu000554415	2002
269	Ohio Wholesale, Inc.	Summer-fall 2002 Tatyana's sno stories.	VAu000551235	2002
270	Ohio Wholesale, Inc.	Summer-fall 2002 vintage designs.	VAu000554408	2002
271	Ohio Wholesale, Inc.	Summer-fall 2002 wildlife/outdoor line.	VAu000554407	2002
272	Ohio Wholesale, Inc.	Tea collection II : 2003/2004.	VAu000589573	2003
273	Ohio Wholesale, Inc.	Tea time 2002.	VAu000554061	2002
274	Ohio Wholesale, Inc.	Tin & cans 2003 : collection 2.	VAu000564139	2002
275	Ohio Wholesale, Inc.	Tins & cans 2003 : collection 3.	VAu000570481	2002
276	Ohio Wholesale, Inc.	Tree collection 2003/2004.	VAu000582357	2003
277	Ohio Wholesale, Inc.	Tribute to firefighters 2002.	VAu000554409	2002
278	Ohio Wholesale, Inc.	Twistee Licks : no. 25568, and other art originals.	VAu000582351	2003
279	Ohio Wholesale, Inc.	Vanity/bath collection 2003 : collection 2.	VAu000570472	2002
280	Ohio Wholesale, Inc.	Very berry line 2003 : collection 2.	VAu000570487	2002
281	Ohio Wholesale, Inc.	Vintage design collection, 2003/2004 : no. 24683-24684, 24942, 24998 ... [et al.]	VAu000585676	2003
282	Ohio Wholesale, Inc.	Vintage design collection no. 1, 2003/2004.	VAu000570773	2003
283	Ohio Wholesale, Inc.	Wear natural fibers--hug your cat : no. 25561, and other sculptures.	VAu000582343	2003
284	Ohio Wholesale, Inc.	Weathervane collection, 2003/2004 : no. 25164-26167.	VAu000585680	2003
285	Ohio Wholesale, Inc.	Welcome design collection no. 1, 2003/2004.	VAu000570784	2003
286	Ohio Wholesale, Inc.	Welcome friends : no. C00053, and other sculptures.	VAu000582350	2003
287	Ohio Wholesale, Inc.	Welcome : no. 25260, 25265-26266.	VAu000585678	2003
288	Ohio Wholesale, Inc.	Welcome : no. 25501, and other sculptures.	VAu000582347	2003
289	Ohio Wholesale, Inc.	Welcome to our camper : no. C00017, and other sculptures.	VAu000582349	2003
290	Ohio Wholesale, Inc.	Welcome to the lake, come early stay late : no. 20827-1, & other wood designs.	VAu000509664	2001
291	Ohio Wholesale, Inc.	Western collection, 2003/2004.	VAu000570787	2003
292	Ohio Wholesale, Inc.	Western decor 2002.	VAu000562821	2002
293	Ohio Wholesale, Inc.	Winter design, 2003/2004 : no. X42121, X42134, X42188 ... [et al.]	VAu000585677	2003
294	Ohio Wholesale, Inc.	Wood fishing designs 1999 : no. 99920, 99932-99933, 99862.	VAu000509230	2001
295	Ohio Wholesale, Inc.	Woodland collection I 2003/2004.	VAu000582355	2003
296	Ohio Wholesale, Inc.	Woodland collection : no. 25318.	VAu000592017	2003

No.	Owner	Full Title	Copyright Number	Date
297	Ohio Wholesale, Inc.	Woof--welcome to the dog house : no. 25482, and other sculptures & art originals.	VAu000582341	2003
298	OHIO WHOLESALE, INC./KENNEDY'S COUNTRY COLLECTION	KENNEDY'S COUNTRY COLLECTION FALL 2009 VOLUME 3.	TX0007248004	2009
299	Ohio Wholesales, Inc.	Hardware collection, spring 2001 : no. 21088-21091, 2133-2140, 2149-2151 ... [et al.]	VAu000516427	2001

(c) Trademarks

<u>Description</u>	<u>Registration No.</u>	<u>Serial No.</u>
"OWP"	2675276	78122000
"JUST BECAUSE . . . STUDIOS"	3549675	77464085
"OHIO WHOLESALE, INC."	3425365	77112171

(d) Software

1. NetSuite Subscription Services Agreement, dated November 26, 2014
2. Point of Sale Equipment Agreement, dated December 17, 2015, between Group One Associates and Ohio Wholesale, Inc., together with Personal Guarantee by Jeffrey Koncz, dated December 21, 2015.

(e) Websites

1. [www.ohiowholesale.com](http://www.ohiowholesale.com)
2. [www.countrysidefinds.com](http://www.countrysidefinds.com)



**SCHEDULE 6.18**  
**LABOR MATTERS**

There are no items to be disclosed in this schedule.

**SCHEDULE 6.19**  
**SUBSIDIARIES AND AFFILIATES**

DEOGRATIAS LLC

100% owner of WHOLESale DÉCOR LLC

WHOLESale DÉCOR LLC

None

SCHEDULE 6.20  
BANK ACCOUNTS

DEOGRATIAS LLC

Woodforest National Bank

Account Number: [REDACTED]

Blocked Account Number: [REDACTED]

WHOLESALE DÉCOR LLC

Woodforest National Bank

Account Number: [REDACTED]

Blocked Account Number: [REDACTED]

The Huntington National Bank

Controlled Disbursement Account Number [REDACTED]

Operating Account Number [REDACTED]

OHIO WHOLESALE, INC.

The Huntington National Bank

Account Number: [REDACTED]

**EXHIBIT 3.4**  
**LIBOR-BASED LOAN REQUEST**

**Woodforest Speciality Finance**

Date: [REDACTED]

To: WNB SF Operations  
Email: [SFOperations@wnbsf.com](mailto:SFOperations@wnbsf.com)

From: [REDACTED]

RE: LIBOR ACTIVITY

Client Name: [REDACTED]

Stucky Loan #ID: [REDACTED]

LIBOR TYPE		Notes
Current Libor \$\$:	-	
Libor Adjustment:	-	
New Libor Amount:	-	
Effective Date:		
Maturity/Repricing Date:		
Libor Days Period:		
Libor Spread Rate:		
Base Rate:		
ALL IN RATE:		
Rate Basis:		
<b>Transaction to be processed:</b>	<b>NOTE</b>	<b>Amount</b>
Decrease:		
Increase:		

Loan Party Representative certifies that the representations and warranties contained in the Loan Agreement and in each other Loan Document, certificate or other writing delivered to Lender pursuant thereto are true and correct on and as the date hereof (other than those that expressly relate only to a specific earlier date), and no Event of Default or Default exists as of the date hereof.

Very truly yours,

**DEOGRATIAS, LLC,**  
as Loan Party Representative for and on behalf of all Loan Parties

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**TRADEMARK**  
**REEL: 005952 FRAME: 0799**

EXHIBIT 4.1  
CLOSING CHECKLIST

(see attached)

**CLOSING CHECKLIST  
 LOAN AND SECURITY AGREEMENT  
 among  
 WOODFOREST NATIONAL BANK, as Lender,  
 and  
 DEOGRATIAS LLC and WHOLESale DÉCOR LLC, as Borrowers**

Closing Date: October 5, 2016

Lender:<sup>1</sup> Woodforest National Bank ("Lender")  
 Borrowers: DeoGratias LLC ("DeoGratias") and Wholesale Décor LLC ("Wholesale")  
 Seller: Huntington National Bank ("Seller")  
 Lender's Counsel: Vorys, Sater, Seymour and Pease LLP ("LC")  
 Borrowers' Counsel: Leiby Hanna Rasnick ("BC")  
 Seller's Counsel: McDonald Hopkins ("SC")

	Document Description	Document No.	Draft/ Responsible	Status/ Notes	Final/ Signatures
<b>LOAN DOCUMENTS</b>					
1.	Loan and Security Agreement	25250650	LC Borrowers BC	Final Form	<input checked="" type="checkbox"/> Borrowers <input checked="" type="checkbox"/> Lender
	<b>Schedules: [subject to change]</b>				
	Schedule 2.1.1 Excluded Assets		Borrowers	Final Form	<input checked="" type="checkbox"/> Final
	Schedule 2.1.2 Permitted Liens		Borrowers	Final Form	<input checked="" type="checkbox"/> Final
	Schedule 2.1.3 Permitted Indebtedness		Borrowers	Final Form	<input checked="" type="checkbox"/> Final
	Schedule 2.1.4 Permitted Liens		Borrowers	Final Form	<input checked="" type="checkbox"/> Final
	Schedule 2.1.5 Subordinated Indebtedness		Borrowers	Final Form	<input checked="" type="checkbox"/> Final
	Schedule 6.8 Legal Name; Employer Identification Number		Borrowers	Final Form	<input checked="" type="checkbox"/> Final
	Schedule 6.12 Principal Place of Business; Collateral Locations		Borrowers	Final Form	<input checked="" type="checkbox"/> Final
	Schedule 6.15 Intellectual Property		Borrowers	Final Form	<input checked="" type="checkbox"/> Final
	Schedule 6.18 Labor Matters		Borrowers	Final Form	<input checked="" type="checkbox"/> Final
	Schedule 6.19 Subsidiaries and Affiliates		Borrowers	Final Form	<input checked="" type="checkbox"/> Final
	Schedule 6.20 Bank Accounts		Borrowers	Final Form	<input checked="" type="checkbox"/> Final
	Schedule 8.2 Permitted Note Payments		Borrowers	Final Form	<input checked="" type="checkbox"/> Final
	<b>Exhibits: [subject to change]</b>				
	Exhibit 3.4 LIBOR-Based Loan Request		Lender	Final Form	<input checked="" type="checkbox"/> Final
	Exhibit 4.1 Closing Checklist		LC	Final Form	<input checked="" type="checkbox"/> Final

<sup>1</sup> A spreadsheet with contact information for the parties is included at the end of this Closing Checklist

	Document Description	Document No.	Draft/ Responsible	Status/ Notes	Final/ Signatures
	Exhibit 7.4(d) Covenant Compliance Certificate		LC	Final Form	<input checked="" type="checkbox"/> Final
2.	Revolving Note (\$6,500,000)	25580123	LC	Final Execution Version	<input checked="" type="checkbox"/> Borrowers
3.	Term Note (\$150,000)	25580344	LC	Final Execution Version	<input checked="" type="checkbox"/> Borrowers
4.	Closing Borrowing Base Certificate		Borrowers		<input checked="" type="checkbox"/> Received
5.	Pledge and Control Agreement (WNB Accounts)	25584336	LC Borrowers	Final Execution Version	<input checked="" type="checkbox"/> Done
6.	Deposit Account Control Agreements (N/A if all accounts at WNB as required under Loan Agreement)/Documentation re: Sweep of Huntington Account(s)	25585962	LC Borrowers	Final Execution Version	<input checked="" type="checkbox"/> Borrowers <input checked="" type="checkbox"/> Other Bank
7.	Security Agreement	25590384	LC Borrowers	Final Execution Version	<input checked="" type="checkbox"/> Borrowers
8.	Security Agreement (Vehicles)	25614016	LC Borrowers	Final Execution Version	<input checked="" type="checkbox"/> Borrowers
9.	IP Security Agreements (a) Trademark (b) Copyrights	25667172 25667255	LC Borrowers	Final Execution Version	<input checked="" type="checkbox"/> Borrowers
10.	Landlord Waivers/Collateral Access Agreements				
	(a) Hartville, Ohio Property	25604790	LC Borrowers	Final Execution Version	<input checked="" type="checkbox"/> Lender <input checked="" type="checkbox"/> Landlord
	Exhibit A -- Copy of Lease		Borrowers		<input checked="" type="checkbox"/> Received
	(b) Seville, Ohio Property	25647058	LC Borrowers	Final Execution Version	<input checked="" type="checkbox"/> Lender <input checked="" type="checkbox"/> Landlord
	Exhibit A -- Copy of Lease		Borrowers	Final Amended and Restated Lease	<input checked="" type="checkbox"/> Received
11.	Subordination Agreements				
	(a) Promissory Notes to Harbarger (\$550,000); (\$140,000)	25670643	LC	Final Execution Version Executed	<input checked="" type="checkbox"/> Lender <input checked="" type="checkbox"/> Creditor



	Document Description	Document No.	Draft/ Responsible	Status/ Notes	Final/ Signatures
	(b) Promissory Note to Koncz (\$673,000); (\$269,200)	25659183	LC	Final Execution Version	<input checked="" type="checkbox"/> Lender <input checked="" type="checkbox"/> Creditor
	(c) Promissory Note to Hersiberger (\$100,000)	25581040	LC	Final Execution Version	<input checked="" type="checkbox"/> Lender <input checked="" type="checkbox"/> Creditor
12.	Limited Guaranties				
	(a) Phil Daetwyler	25682181	LC	Final Execution Version	<input checked="" type="checkbox"/> Guarantor
	(b) Jim Varga	25660227	LC	Final Execution Version	<input checked="" type="checkbox"/> Guarantor
<b>ACQUISITION DOCUMENTS</b>					
13.	Due Diligence Questionnaire		BC SC		<input checked="" type="checkbox"/> Received
14.	Acquisition Documents		BC SC	SC provided final versions promptly after closing	<input checked="" type="checkbox"/> Received
15.	Assignment of Trade Names (Ohio SOS)		BC SC	Final Form	<input checked="" type="checkbox"/> Received
16.	Closing Checklist for Acquisition		BC SC	Received 10/3/2016	<input checked="" type="checkbox"/> Received
17.	Subordinated Loan Documents		BC SC	Received	<input checked="" type="checkbox"/> Received
18.	Supplier/Trade Creditor Payment Arrangements		BC SC	N/A	<input checked="" type="checkbox"/> Received
19.	Evidence of Direct Equity Investment		BC SC		<input checked="" type="checkbox"/> Received
20.	Inventory Appraisal and Roll Forward		Lender	Received 9/23/2016	<input checked="" type="checkbox"/> Received
21.	Material Contracts		Borrower	N/A	<input checked="" type="checkbox"/> Received
<b>DUE DILIGENCE DOCUMENTS</b>					
22.	Perfection Certificates		Borrowers	Received 9/22/2016	<input checked="" type="checkbox"/> Borrowers
23.	Pre-Filing UCC and Tax Lien Searches				
	(a) DeoGratias -- Stark County, Ohio, State (OH) and Federal		LC	Received 8/11/2016	<input checked="" type="checkbox"/> Received
	(b) Wholesale -- Stark County, Ohio, State (OH) and Federal		LC	Received 8/11/2016	<input checked="" type="checkbox"/> Received

	Document Description	Document No.	Draft/ Responsible	Status/ Notes	Final/ Signatures
	(c) Seller - Medina County, Ohio, Summit County, Ohio, Fulton County, Georgia, State (OH, GA) and Federal		SC	Initial Search (performed 4/15/2016)  Updated Search (performed 5/1/2016)  Updated Search (performed 9/8/2016)	<input checked="" type="checkbox"/> Received
24.	Post-Filing UCC and Tax Lien Searches				
	(d) DeoGratias -- Stark County, Ohio, State and Federal		LC	Post-Closing	<input type="checkbox"/> Received
	(e) Wholesale -- Stark County, Ohio, State (OH) and Federal		LC	Post-Closing	<input type="checkbox"/> Received
25.	Litigation/Judgment Lien Searches (County/Federal)				
	(f) DeoGratias -- Stark County, Ohio and Federal		LC	Received 8/11/2016	<input checked="" type="checkbox"/> Received
	(g) Wholesale -- Stark County, Ohio and Federal		LC	Received 8/11/2016	<input checked="" type="checkbox"/> Received
	(h) Seller - Medina County, Ohio, Summit County, Ohio, Fulton County, Georgia, and Federal		SC	Initial Search (performed 4/15/2016)  Updated Search (performed 5/1/2016)  Updated Search (performed 9/8/2016)	<input checked="" type="checkbox"/> Received
26.	Bankruptcy Searches				
	(i) DeoGratias -- Northern District of Ohio		LC	Received 8/11/2016	<input checked="" type="checkbox"/> Received
	(j) Wholesale -- Northern District of Ohio		LC	Received 8/11/2016	<input checked="" type="checkbox"/> Received

	Document Description	Document No.	Draft/ Responsible	Status/ Notes	Final/ Signatures
	Seller - Northern District of Ohio, Northern District of Georgia		SC	Initial Search (performed 4/15/2016)  Updated Search (performed 5/1/2016)  Updated Search (performed 9/8/2016)	<input checked="" type="checkbox"/> Received
27.	Insurance Certificates				
	(a) DeoGratias i. Certificate of Liability Ins. (Acord 25) (WNB listed as additional insured) ii. Evidence of Property Ins. (Acord 27) (WNB listed as lender loss payee and mortgagee) iii. Evidence of Credit Insurance		BC Borrowers	Post-Closing	<input type="checkbox"/> Received
	(b) Wholesale i. Certificate of Liability Ins. (Acord 25) (WNB listed as additional insured) ii. Evidence of Property Ins. (Acord 27) (WNB listed as lender loss payee and mortgagee) iii. Evidence of Credit Insurance		BC Borrowers	Post-Closing	<input type="checkbox"/> Received
28.	Financial Statements				
	(a) DeoGratias		BC Borrowers	Received	<input checked="" type="checkbox"/> Received
	(b) Wholesale		BC Borrowers	Received	<input checked="" type="checkbox"/> Received
	(c) Seller		BC Borrowers	Received	<input checked="" type="checkbox"/> Received
29.	Preliminary Asset Field Audit		Lender		<input checked="" type="checkbox"/> Received
30.	Final Field Audit and Roll Forward		Lender	Received 9/23/2016	<input checked="" type="checkbox"/> Received
<b>OTHER CLOSING DOCUMENTS</b>					
31.	Secretary's Certificate -- DeoGratias		BC	Received	<input checked="" type="checkbox"/> Secretary
	Exhibit A -- List of Officers and Directors		BC	Received	<input checked="" type="checkbox"/> Received
	Exhibit B -- LLC Agreement		BC	Received	<input checked="" type="checkbox"/> Received

	Document Description	Document No.	Draft/ Responsible	Status/ Notes	Final/ Signatures
	Exhibit C -- Certified Articles of Organization		BC	Received	<input checked="" type="checkbox"/> Received
	Exhibit D -- List of Equity Holders		BC	Received	<input checked="" type="checkbox"/> Received
	Exhibit E -- Resolutions		BC	Received	<input checked="" type="checkbox"/> Received
	Exhibit F -- Good Standing Certificate (OH)		BC	Received	<input checked="" type="checkbox"/> Received
32.	Secretary's Certificate -- Wholesale		BC	Received	<input checked="" type="checkbox"/> Secretary
	Exhibit A -- List of Officers and Directors		BC	Received	<input checked="" type="checkbox"/> Received
	Exhibit B -- LLC Agreement		BC	Received	<input checked="" type="checkbox"/> Received
	Exhibit C -- Certified Articles of Organization		BC	Received	<input checked="" type="checkbox"/> Received
	Exhibit D -- List of Equity Holders		BC	Received	<input checked="" type="checkbox"/> Received
	Exhibit E -- Resolutions		BC	Received	<input checked="" type="checkbox"/> Received
	Exhibit F -- Good Standing Certificate (OH)		BC	Received	<input checked="" type="checkbox"/> Received
33.	Legal Opinions		LC/BC/SC	Received pdf	<input checked="" type="checkbox"/> Received
34.	(a) Disbursement Memorandum Agreement (b) Sources and Uses		L/C/Lender/Borrowers		<input type="checkbox"/> Borrowers
35.	UCC Financing Statement -- all assets of Borrowers				
	(a) DeoGratias	25612026	LC	Filed with Ohio SOS 10/3/2016	<input checked="" type="checkbox"/> File Copy Received
	(b) Wholesale	25612028	LC	Filed with Ohio SOS 10/3/2016	<input checked="" type="checkbox"/> File Copy Received
36.	Prefiling Agreement		Borrowers	N/A	<input checked="" type="checkbox"/> Received
37.	Payoff Letters				
	(a) FM		SC	SC to provide updated payoff letter 10/5/2016	<input checked="" type="checkbox"/> Received
38.	Motor Vehicle Titles/Liens		LC	Post-Closing	<input type="checkbox"/> Received
39.	Open Blocked Account		Borrowers Lender	Opened 9/30/2016	<input checked="" type="checkbox"/> Opened

**DISTRIBUTION LIST:**

<b>Lender</b>	
Todd Sechase First Vice President, Portfolio Manager WNB Specialty Finance 28001 Cabot Drive, Suite 240 Novi, MI 48377	Telephone: 248-991-3814 E-mail: Todd.Sechase@wnbsf.com
<b>Lender's Counsel</b>	
Bryan Falk Partner Vorys, Sater, Seymour and Pease LLP 200 Public Square, Suite 1400 Cleveland, OH 44114	Telephone: (216) 479-6124 E-mail: bhfalk@vorys.com
Drew Parobek Partner Vorys, Sater, Seymour and Pease LLP 200 Public Square, Suite 1400 Cleveland, OH 44114	Telephone: (216) 479-6162 E-mail: dtparobek@vorys.com
Kelsey Toulouse Associate Vorys, Sater, Seymour and Pease LLP 200 Public Square, Suite 1400 Cleveland, OH 44114	Telephone: (216) 479-6193 E-mail: kmtoulouse@vorys.com
Nicholas House Associate Vorys, Sater, Seymour and Pease LLP 200 Public Square, Suite 1400 Cleveland, OH 44114	Telephone: (216) 479-6122 E-mail: nrhouse@vorys.com
<b>Borrowers</b>	
Philip M. Daetwyler	Telephone: (330) 608-2688 E-mail: pdaetwyler@daetwylerllc.com
<b>Borrowers' Counsel</b>	
John Rasnick Leiby Hanna Rasnick 388 S. Main St., Suite 402 Akron, OH 44311	Telephone: (330) 375-5026 E-mail: john@neolaw.biz
<b>Seller's Counsel</b>	

Vorys, Sater, Seymour and Pease LLP  
Wednesday, October 05, 2016  
10:12:34 AM

<p>Scott Opincar Member McDonald Hopkins LLC 600 Superior Avenue East Suite 2100 Cleveland, OH 44114</p>	<p>Telephone: (216) 348-5753 E-mail: <a href="mailto:sopincar@mcdonaldhopkins.com">sopincar@mcdonaldhopkins.com</a></p>
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**EXHIBIT 7.4(d)**  
**COVENANT COMPLIANCE CERTIFICATE**

\_\_\_\_\_, 201\_\_

Woodforest National Bank

Dear \_\_\_\_\_:

We have reviewed and refer you to the Loan and Security Agreement (the "Loan Agreement") dated October \_\_\_\_, 2016 among Woodforest National Bank, through its division WNB Specialty Finance ("Lender") and Wholesale Décor LLC, an Ohio limited liability company ("WD") and DeoGratias, LLC, an Ohio limited liability company ("DeoGratias," and together with WD and each other Person who joins the Loan Agreement as a borrower, each a "Borrower" and collectively the "Borrowers"). Capitalized terms have the meaning given in the Loan Agreement. As of today:

1. Except as set forth on Schedule 1, no Event of Default or Default has occurred under the Loan Agreement.

2. Except as set forth on Schedule 2, to the best of our knowledge, no suit or proceeding at law or in equity or of any governmental body has been instituted or threatened, including those that could materially and adversely affect the financial condition or business operations of any Loan Party.

3. Except as set forth on Schedule 3, the financial statements of the Borrowers attached have been prepared in accordance with GAAP (subject to year-end adjustments) and fairly represent the Borrowers' financial condition.

4. Except as set forth on Schedule 4, Loan Parties are in compliance with all covenants (including the Fixed Charge Coverage Ratio), and each of the representations and warranties set forth in the Loan Agreement and the other Loan Documents, as of the date of this Certificate and as of the date of any financial statements submitted with this Certificate.

5. Except as set forth on Schedule 5, there has been no material change in any Loan Party's relationships or contracts with its customers that may negatively impact any Loan Party's future business operations.

6. Except as set forth on Schedule 6, no Borrower participates in any programs with any of its customers under which the customers sell or supply that Borrower with Inventory on a purchase, consignment, bailment or other basis.

7. For the Measurement Period ending \_\_\_\_\_, 20\_\_, the Borrowers' Fixed Charge Coverage Ratio was \_\_:1. Schedule 7 shows the calculation of the Fixed Charge Coverage Ratio.

8. The Borrowers have spent \$ \_\_\_\_\_ on Capital Expenditures for the period from the beginning of the current fiscal year through the end of the Measurement Period ending \_\_\_\_\_, 20\_\_\_\_. Schedule 8 shows the calculation of Capital Expenditures.

9. Except as set forth on Schedule 9, each Loan Party has timely paid all rent at all leased locations at which any Loan Party conducts business.

You are authorized to rely on this certification for any future Loans made to the Borrowers.

**DEOGRATIAS, LLC,**  
an Ohio limited liability company

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_