

## TRADEMARK ASSIGNMENT COVER SHEET

Electronic Version v1.1  
Stylesheet Version v1.2

ETAS ID: TM675721

<b>SUBMISSION TYPE:</b>	NEW ASSIGNMENT		
<b>NATURE OF CONVEYANCE:</b>	RELEASE OF SECURITY INTEREST RECORDED AT REEL/FRAME 5484/0001		
<b>CONVEYING PARTY DATA</b>			
<b>Name</b>	<b>Formerly</b>	<b>Execution Date</b>	<b>Entity Type</b>
Southeastern Commercial Finance, LLC		09/20/2021	Limited Liability Company: ALABAMA
<b>RECEIVING PARTY DATA</b>			
<b>Name:</b>	Mission Pets, Inc. (sucessor of Harry Barker, Inc.)		
<b>Street Address:</b>	986 Mission Street		
<b>City:</b>	San Francisco		
<b>State/Country:</b>	CALIFORNIA		
<b>Postal Code:</b>	94103		
<b>Entity Type:</b>	Corporation: CALIFORNIA		
<b>PROPERTY NUMBERS Total: 7</b>			
<b>Property Type</b>	<b>Number</b>	<b>Word Mark</b>	
<b>Registration Number:</b>	4156676	HARRY BARKER	
<b>Registration Number:</b>	3828743	HOUSE OF BARKER	
<b>Registration Number:</b>	2424818	HARRY BARKER	
<b>Serial Number:</b>	85308225	HARRY BARKER	
<b>Serial Number:</b>	77490846	BELLA ROVER	
<b>Serial Number:</b>	77341221	HOUSE OF BARKER	
<b>Serial Number:</b>	75791432	HARRY BARKER	
<b>CORRESPONDENCE DATA</b>			
<b>Fax Number:</b>	3128622200		
<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>	3128622000		
<b>Email:</b>	rob.soneson@kirkland.com		
<b>Correspondent Name:</b>	ROB SONESON		
<b>Address Line 1:</b>	300 N LaSalle		
<b>Address Line 2:</b>	Kirkland & Ellis LLP		
<b>Address Line 4:</b>	Chicago, ILLINOIS 60654		
<b>ATTORNEY DOCKET NUMBER:</b>	42946-3		

CH \$190.00 4156676

<b>NAME OF SUBMITTER:</b>	Rob Soneson
<b>SIGNATURE:</b>	/rsoneson/
<b>DATE SIGNED:</b>	09/21/2021

**Total Attachments: 51**

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**AFFIDAVIT TO AFFIRM THE RELEASE OF SECURITY AGREEMENT**

This Affidavit to Affirm the Release of Security Agreement is effective as of September 20, 2021 pursuant to the fulfillment of the loan obligations.

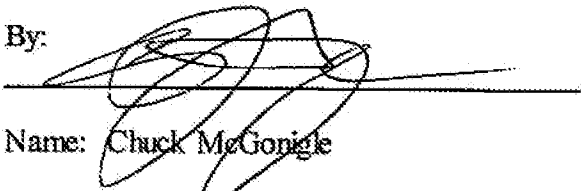
I, **Chuck McGonigle**, do declare as follows:

I am the president of **MISSION PETS, INC.**, a California Corporation, located at 986 Mission Street, San Francisco, California, United States 94103, successor of **HARRY BARKER, INC.** (referred hereafter as, the "Company").

1. Pursuant to that certain Trademark Security Agreement, dated as of March 17, 2015 (the "Security Agreement"), the Company granted a security interest to SOUTHEASTERN COMMERCIAL FINANCE, LLC (the "Collateral Agent") in the trademark registrations set forth on Schedule A attached hereto (the "Trademarks").
2. The Security Agreement was recorded at the U.S. Patent and Trademark Office (the "PTO") on March 23, 2015 at Reel/Frame 5484/0001 with respect to the Trademarks.
3. To the best of my knowledge, the obligations secured under the Security Agreement were satisfied. Company repaid all its outstanding loans and other Obligations in full, and the Collateral Agent, on behalf of itself and the holders of the Secured parties, terminated and released its security interest in the Trademarks.
4. Due to unknown reasons, a release of the Security Agreement was not filed with the PTO.
5. The undersigned, being hereby advised that willful false statement and the like so made are punishable by fine or imprisonment, or both, under 18 U. S. C. 1001, declares that the facts set forth in this Declaration are true; all statements made of his/her own knowledge are true; and all statements made on information and belief are believed to be true.
6. The undersigned has personal knowledge of these facts and attests to their truth.

Given and signed at Akron, Ohio, U.S.A., this 20th day of September, 2021.

**MISSION PETS, INC. (successor to  
HARRY BARKER, INC.)**

By: 

Name: Chuck McGonigle

Title: President

## TRADEMARK ASSIGNMENT COVER SHEET

Electronic Version v1.1  
Stylesheet Version v1.2

ETAS ID: TM335930

<b>SUBMISSION TYPE:</b>	NEW ASSIGNMENT		
<b>NATURE OF CONVEYANCE:</b>	SECURITY INTEREST		
<b>CONVEYING PARTY DATA</b>			
<b>Name</b>	<b>Formerly</b>	<b>Execution Date</b>	<b>Entity Type</b>
Harry Barker, Inc.		03/17/2015	CORPORATION: DELAWARE
<b>RECEIVING PARTY DATA</b>			
<b>Name:</b>	Southeastern Commercial Finance, LLC		
<b>Street Address:</b>	1500 1st Avenue North		
<b>Internal Address:</b>	Suite A119		
<b>City:</b>	Birmingham		
<b>State/Country:</b>	ALABAMA		
<b>Postal Code:</b>	35203		
<b>Entity Type:</b>	LIMITED LIABILITY COMPANY: ALABAMA		
<b>PROPERTY NUMBERS Total: 7</b>			
<b>Property Type</b>	<b>Number</b>	<b>Word Mark</b>	
<b>Serial Number:</b>	85308225	HARRY BARKER	
<b>Serial Number:</b>	77490846	BELLA ROVER	
<b>Serial Number:</b>	77341221	HOUSE OF BARKER	
<b>Serial Number:</b>	75791432	HARRY BARKER	
<b>Registration Number:</b>	4156676	HARRY BARKER	
<b>Registration Number:</b>	3828743	HOUSE OF BARKER	
<b>Registration Number:</b>	2424818	HARRY BARKER	
<b>CORRESPONDENCE DATA</b>			
<b>Fax Number:</b>	2052508028		
<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>	205-250-8026		
<b>Email:</b>	ray.alberti@southeasterncommercial.com		
<b>Correspondent Name:</b>	Southeastern Commercial Finance		
<b>Address Line 1:</b>	1500 1st Avenue North		
<b>Address Line 2:</b>	Suite A119		
<b>Address Line 4:</b>	Birmingham, ALABAMA 35203		
<b>NAME OF SUBMITTER:</b>	Raymond Alberti		
<b>SIGNATURE:</b>	/Raymond Alberti/		

OP \$190.00 85308225

**DATE SIGNED:**

03/23/2015

**Total Attachments: 47**

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**First American Title™**

UCC DIVISION

## Order Summary

March 23, 2015

Jim Anderson

Southeastern Commercial Finance, LLC

P.O. Box 11063

Birmingham, AL 35202-1063

Phone: 2052508026

Client ID: 1372701

Order Number: 0000127290

Customer Reference: Harry Barker

Project Name:

This report reflects the results of your order. Services were rendered against the following name(s) in the jurisdictions named below:

### FILING TRANSACTIONS

Name(s)	Jurisdiction/Office	Service	Results
Harry Barker, Inc.	Delaware Secretary of State	Original Filing	File #: 2015 1154771 File Date: 03/19/2015 Order Request: N/A





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UCC DIVISION

## Original Filing

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March 23, 2015

Order Number: 0000127290

Project Name:

Customer Reference: Harry Barker

Jurisdiction: Delaware

Transaction Reference:

Filing Type: Original Filing

Jurisdiction Office: Secretary of State

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Debtor(s): Harry Barker, Inc. 909-A Commerce Circle, Hanahan, SC 29410

Secured Party(ies): Southeastern Commercial Finance, LLC P.O. BOX 11063, Birmingham, AL 35202-106.

File Number: 2015 1154771

File Date: 03/19/2015

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Notes:

Inasmuch as the responsibility for the verification of the filing and determination of the filings acceptability for recordation lies with the Filing Officer, we accept no liability for recordation errors or rejections. Inasmuch as the responsibility for determining the proper jurisdiction for recording the filing lies with the secured party we accept no liability for errors in recordation.

**UCC FINANCING STATEMENT**  
 FOLLOW INSTRUCTIONS

DELAWARE DEPARTMENT OF STATE  
 U.C.C. FILING SECTION  
 FILED 11:09 AM 03/19/2015  
 INITIAL FILING # 2015 1154771

SRV: 150379701

A. NAME & PHONE OF CONTACT AT FILER (optional)

B. E-MAIL CONTACT AT FILER (optional)

C. SEND ACKNOWLEDGMENT TO: (Name and Address)

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

1 DEBTOR'S NAME: Provide only one Debtor name (1a or 1b) (use exact, full name; do not omit, modify, or abbreviate any part of the Debtor's name); if any part of the individual Debtor's name will not fit in line 1b, leave all of item 1 blank, check here  and provide the individual Debtor information in item 10 of the Financing Statement Addendum (Form UCC1Ad)

1a ORGANIZATION'S NAME <b>Harry Barker, Inc.</b>				
OR				
1b INDIVIDUAL'S SURNAME		FIRST PERSONAL NAME	ADDITIONAL NAME(S) (INITIAL(S))	SUFFIX
1c MAILING ADDRESS <b>909-A Commerce Circle</b>		CITY <b>Hanahan</b>	STATE <b>SC</b>	POSTAL CODE <b>29410</b>
			COUNTRY <b>USA</b>	

2 DEBTOR'S NAME: Provide only one Debtor name (2a or 2b) (use exact, full name; do not omit, modify, or abbreviate any part of the Debtor's name); if any part of the individual Debtor's name will not fit in line 2b, leave all of item 2 blank, check here  and provide the individual Debtor information in item 10 of the Financing Statement Addendum (Form UCC1Ad)

2a ORGANIZATION'S NAME				
OR				
2b INDIVIDUAL'S SURNAME		FIRST PERSONAL NAME	ADDITIONAL NAME(S) (INITIAL(S))	SUFFIX
2c MAILING ADDRESS		CITY	STATE	POSTAL CODE
			COUNTRY	

3 SECURED PARTY'S NAME (or NAME of ASSIGNEE of ASSIGNOR SECURED PARTY): Provide only one Secured Party name (3a or 3b)

3a ORGANIZATION'S NAME <b>Southeastern Commercial Finance, LLC</b>				
OR				
3b INDIVIDUAL'S SURNAME		FIRST PERSONAL NAME	ADDITIONAL NAME(S) (INITIAL(S))	SUFFIX
3c MAILING ADDRESS <b>P. O. Box 11063</b>		CITY <b>Birmingham</b>	STATE <b>AL</b>	POSTAL CODE <b>32502-1063</b>
			COUNTRY <b>USA</b>	

4 COLLATERAL This financing statement covers the following collateral:

All of the Debtor's assets, wherever located and whether presently owned or acquired hereafter; to specifically include, but in no way be limited to, Debtor's accounts, accounts receivable, inventory, furniture & fixtures, machinery & equipment, chattel paper and all general intangibles, including intellectual property, trademarks and trade names including, without limitation, the following trademarks:

- Trademark "Harry Barker" USPTO Serial No. 85308225, Registration No. 4156676
- Trademark "Bella Rover" USPTO Serial No. 77490846
- Trademark "House of Barker" USPTO Serial No. 77341221, Registration No. 3828743
- Trademark "Harry Barker" USPTO Serial No. 75791432, Registration No. 2424818

5. Check only if applicable and check only one box: Collateral is  held in a Trust (see UCC1Ad, Item 17 and Instructions)  being administered by a Decedent's Personal Representative

6a. Check only if applicable and check only one box:  Public Finance Transaction  Manufactured-Home Transaction  A Debtor is a Transmitting Utility

6b. Check only if applicable and check only one box:  Agricultural Lien  Non-UCC Filing

7. ALTERNATIVE DESIGNATION (if applicable)  Lessor/Lessee  Consignor/Consignee  Seller/Buyer  Bailor/Bailee  Licensor/Licensee

8. OPTIONAL FILER REFERENCE DATA:

## LOAN AND SECURITY AGREEMENT

This **LOAN AND SECURITY AGREEMENT** (this "Agreement") is made this 17th day of March, 2015, by and between **SOUTHEASTERN COMMERCIAL FINANCE, L.L.C.**, ("Lender"), an Alabama limited liability company, with an office at 1500 First Avenue North, Suite A119, Birmingham, Alabama 35203, and **HARRY BARKER, INC.** ("Borrower") a Delaware corporation, with its chief executive office and principal place of business at 909-A Commerce Circle, Hanahan, SC 29410. Capitalized terms used in this Agreement and not otherwise defined herein have the meanings assigned to them in **Exhibit A**, General Definitions.

### **ARTICLE I** **THE LOANS**

#### 1.1 Line of Credit Loan.

(a) Subject to the following terms and conditions, Lender agrees to loan to Borrower principal amounts aggregating up to the lesser of \$1,000,000.00 or the Borrowing Base (the "Line of Credit Loan"). Lender agrees to lend those funds to Borrower on a revolving basis such that Borrower may borrow, make payments, and reborrow during the term of this Agreement, until the earlier to occur of the Maturity Date or the occurrence and during the continuance of an Event of Default.

(b) The Line of Credit Loan will be evidenced by one or more Notes payable to the order of Lender and maturing on the Maturity Date unless accelerated due to the occurrence and continuance of an Event of Default.

(c) Each advance of funds under the Line of Credit Loan shall be effected by Borrower's making a written draw request at least one Business Day prior to the date Borrower desires the advance to be made. Each written draw request shall be accompanied by a current Borrower's Report certified by the appropriate Authorized Representative of Borrower as being true and accurate.

(d) If the outstanding principal amount of the Line of Credit Loan at any time exceeds the lesser of \$1,000,000.00 or the Borrowing Base as reflected on Borrower's Report, Borrower shall immediately pay Lender an amount equal to such excess as a payment on the principal amount of the Line of Credit Loan, together with an accrued and unpaid interest on such excess amount at the Default Rate. **NOTWITHSTANDING THE FOREGOING**, Lender will permit the loan balance to exceed the Borrowing Base under terms set forth in Lender's proposal letter to Borrower dated February 12, 2015, a copy of which is attached hereto as Exhibit F. For any month, or any part of a month, that such an excess exists, Borrower shall pay to Lender an Over-Advance Fee of \$1,500.00.

(e) The principal amount of the Line of Credit Loan shall bear interest at the Prime-Based Rate. Interest shall be payable monthly in arrears on the first day of each month beginning with April 1st, 2015, and continuing on the same day of each month as long as any principal remains outstanding. The Prime-Based Rate on the Line of Credit Loan shall change as and when the Prime Rate changes. The Prime Rate on the date of this Agreement

is Four percent (4.0%). The Prime-Based Rate on the date of this Agreement is Six percent (6.0%).

(f) In addition to interest and other charges provided for herein, Borrower shall pay to Lender monthly an amount equal to sixty-five one-hundredths of one percent (.65%) of the Average Monthly Loan Balance (the "Servicing Fee"). The Servicing Fee shall be payable monthly, in arrears, with each payment of interest or upon the demand of Lender or otherwise at such time as all sums are due and payable hereunder. Borrower shall also pay to Lender, at closing, a fee equal to One percent (1.0%) of the face amount of the Note.

(g) Notwithstanding any other provision in this Agreement, Lender may at any time upon prior notice to Borrower limit the amount of the Line of Credit Loan advanced to Borrower to an amount less than the Borrowing Base.

1.2 Computation of Interest. Interest on the Loans shall be calculated based on the actual number of days elapsed over a year of 360 days unless reference to a 365 or a 366-day year is necessary in order not to exceed the highest rate permitted by Applicable Law. After the occurrence and during the continuance of an Event of Default, the Loans shall bear interest at the Default Rate.

1.3 Payments. All sums paid to Lender by Borrower shall be paid in immediately available funds. Lender shall send Borrower statements of all amounts due under the Loans and those statements shall be considered correct and conclusively binding on Borrower unless Borrower objects within ten (10) days of its receipt of any such statement.

1.4 Collateral. The Loans, each Note, and the Obligations shall be secured by each of the following, which shall remain valid and binding as security for the aggregate amount of the Obligations outstanding from time to time whether or not the full amount of the Line of Credit Loan is actually advanced by Lender to Borrower:

- (a) A security interest in the Collateral, and
- (b) The unconditional guarantee of Guarantors.

1.5 Maturity Date. The Line of Credit Loan shall mature on the Maturity Date unless accelerated due to the occurrence and continuance of an Event of Default.

## **ARTICLE II** **CONDITIONS OF LENDING**

Lender shall not be obligated to make the Loans, or any advance under the Loans, unless at the time the following conditions shall have been met:

2.1 Documentation. The Loans shall be properly documented and secured, and all Loan Documents shall have been duly executed and delivered, and Lender shall have received each of the following: (1) certified copies of Borrower's Governing Documents; (2) a certificate of good standing and/or, as applicable, a certificate of existence from the appropriate

agency in each state where Borrower conducts business, and (3) any other documents requested by Lender.

2.2 No Default. No Event of Default shall have occurred and be continuing and no condition shall exist which would, with the giving of notice or the lapse of time or both become an Event of Default; and neither the business nor assets nor the financial or other condition, of Borrower shall have been materially and adversely affected as the result of any fire, explosion, accident, strike, riot, condemnation, act of God, or any other event or development.

2.3 Reports. Lender shall have received and approved in Lender's sole discretion all reports and information from Borrower required under this Agreement.

2.4 No Litigation. No action, proceeding, investigation, regulation or legislation shall have been instituted, threatened or proposed to enjoin, restrain, or prohibit or to obtain damages in respect of the Loans.

2.5 Insurance. Lender shall have received copies of the casualty insurance policies of Borrower required by this Agreement, together with loss payable endorsements on Lender's standard form of loss payee endorsement naming Lender as loss payee and copies of Borrower's liability insurance policies, together with endorsements naming Lender as a co-insured.

2.6 Authorized Representative Certificates. On and as of the date of this Agreement, Borrower must have delivered to Lender the following certificates executed by the appropriate Authorized Representatives of Borrower, each of which certificates must be of a current date and must be satisfactory in form and substance to Lender: (a) a certificate confirming compliance by Borrower with the conditions precedent set forth in Section 2.2; (b) a certificate certifying as in full force and effect resolutions of the directors, shareholders, partners, members or other appropriate persons under Borrower's Governing Documents and Applicable Law authorizing the transactions contemplated by the Loan Documents and authorizing certain Authorized Representatives of Borrower to execute the Loan Documents on behalf of Borrower and to act on behalf of Borrower with respect to the Loan Documents, including the authority to request disbursements of the proceeds of the Loan and to direct the disposition of such proceeds; and (c) a certificate certifying as true and correct, as amended, attached copies of Borrower's Governing Documents and the incumbency and signature of each Authorized Representative of Borrower specified in said resolutions. Lender may conclusively rely on the certified resolutions described in Section 2.6(b) as to all actions on behalf of Borrower by the Authorized Representatives specified therein until Lender has received duly adopted resolutions canceling or amending the prior resolutions.

2.7 Consents. Lender shall have received consents of the landlords of each parcel leased by Borrower as provided in Section 6.2.

2.8 Lien Search. Lender shall have received a report from appropriate government offices indicating that there are no Liens against the Collateral except Permitted Liens.

2.9 Additional Documents. Lender shall have received any additional certificates, instruments and other documents as it may request to evidence (i) compliance by Borrower with the requirements of all Applicable Law, (ii) the truth and accuracy of the representations of Borrower, and (iii) the due performance or satisfaction by Borrower of all agreements required to be performed and all conditions required to be satisfied by Borrower.

### **ARTICLE III**

#### **REPRESENTATIONS, WARRANTIES AND GENERAL COVENANTS**

Borrower represents, warrants and covenants to and with Lender, which representations, warranties and covenants shall survive until the Obligations are indefeasibly satisfied in full, that:

3.1 Organization and Qualification. Borrower is a corporation duly organized, validly existing and in good standing under the laws of the State of its formation, has the corporate power to own its properties and to carry on its business as now being conducted, and is duly qualified or registered to do business and is in good standing in every jurisdiction in which the character of the properties owned by it or in which the transaction of its business makes its qualification or registration necessary and the lack of qualification or registration would have a Material Adverse Effect upon the Company or the Lender's ability to collect on the Collateral.

3.2 Organizational Power and Authorization. Borrower has full power and authority to enter into this Agreement, to borrow funds, to execute and deliver the Notes and the other Loan Documents, and to incur the obligations provided for in this Agreement, all of which have been authorized by all proper and necessary corporate action.

3.3 Enforceability. This Agreement, the Notes, and each of the other Loan Documents constitute the valid and legally binding obligation of Borrower enforceable in accordance with their respective terms, and Borrower's execution, delivery and performance thereof will not violate, conflict with, or constitute any default under any Governmental Requirement, Borrower's Governing Documents, or any other agreement or instrument binding upon Borrower or result in the creation or imposition of any Lien upon any of its properties except as contemplated by this Agreement or the other Loan Documents.

3.4 Financial Statements. The financial statements of Borrower delivered to Lender and all other financial statements and reports furnished to Lender are complete and correct and fairly present the financial condition of Borrower and the results of its operations as of the dates and for the periods referred to and have been prepared in accordance with GAAP applied on a consistent basis throughout the periods involved. Since the date of the financial statements, no Material Adverse Change has occurred. Borrower has no liability, direct or contingent, that is material in amount and not reflected on Borrower's financial statements.

3.5 Title to Properties. Borrower has good and marketable title to all of its assets, including the Collateral, subject to no Lien, mortgage, pledge, encumbrance, or charge of any kind except inchoate Liens arising by operation of law for obligations which are not yet due and except for Permitted Liens.

3.6 Taxes. Borrower has filed all federal, state and local tax returns which are required to be filed and has paid all Taxes which are due to any taxing authority, including, without limitation, all applicable federal, state, and local employee withholding taxes and all federal excise taxes. All such returns are complete and accurate in all respects.

3.7 Litigation. There are no actions, suits or proceedings (whether or not purportedly on its behalf) pending or, to the best of its knowledge, threatened against or affecting Borrower, by or before any Governmental Authority or in or under any other jurisdiction, court or otherwise, that involve any of the transactions contemplated by the Loan Documents or the possibility of any judgment or liability in excess of \$25,000 or that might reasonably be expected to result in any Material Adverse Change; and Borrower is not, to the best of its knowledge, in default with respect to any Governmental Requirement.

3.8 Agreements. Borrower is not a party to any agreement or instrument, or subject to any restriction in Borrower's Governing Documents that materially and adversely affects its business, operations, properties or condition, financial or otherwise, and it is not in default in the performance, observance or fulfillment of any of the obligations, covenants or conditions contained in any agreement or instrument to which it is a party, which default might reasonably be expected to have a Material Adverse Effect.

3.9 Federal Reserve Board Regulations. Borrower does not intend to use any part of the proceeds of the Loans, and has not incurred any indebtedness to be reduced, retired or purchased by it out of such proceeds, for the purpose of purchasing or carrying any Margin Stock, and it does not own or has no intention of acquiring any such Margin Stock.

3.10 Investment Company Act. It is not an "investment company," or a company "controlled" by an "investment company," as such terms are defined in the Investment Company Act of 1940, as amended.

3.11 ERISA.

(a) The execution and delivery of this Agreement and the issuance and delivery of the Note as contemplated hereby will not involve any prohibited transaction within the meaning of ERISA or Section 4975 of the Internal Revenue Code, as amended.

(b) Based on ERISA and the regulations and published interpretations thereunder, it is in compliance in all material respects with the applicable provisions of ERISA.

(c) No "Reportable Event," as defined in Section 4043(b) of Title IV of ERISA, has occurred with respect to any plan maintained by it.

3.12 Location/Organization. The addresses of (a) each of Borrower's places of business, (b) Borrower's chief executive office, (c) the office where Borrower keeps Borrower's records concerning Accounts, (d) Borrower's registered agent, and (e) each location where Borrower keeps any Tangible Property, are correctly and completely set forth on **Exhibit C**. No change has occurred in (x) such address(es) in the five years immediately preceding the

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execution of this Agreement except for; the change from the address of 4275 Arco Lane, North Charleston, SC , (y) Borrower's legal name is set forth in the first paragraph of this Agreement, or (z) Borrower's state of incorporation or registration (if Borrower was created by such state filing) is the following state: Delaware identified in the Certificate of Borrower's Legal Name and Location delivered to Lender at the execution of this Agreement.

3.13 General Representations and Warranties. (a) All material Contracts to which Borrower is a party are accurately described in Part 1 of **Exhibit D**, (b) all of Borrower's patents, patent applications, trademarks, trade names, service marks, logos, copyrights, copyright applications and all of Borrower's material registrations, licenses, permits and franchises, are accurately described in Part 2 of **Exhibit D**, (c) all Leases in which Borrower is the lessor are accurately described in Part 3 of **Exhibit D**, and (d) all Leases in which Borrower is the lessee are accurately described in Part 4 of **Exhibit D**.

3.14 Borrower's Name. Borrower has not changed its name or been known by any other name within the last five (5) years, nor has it been the surviving corporation in a merger effected within the last five (5) years. Borrower has never used any trade or fictitious name in the conduct of its business.

3.15 Consents, Registrations, Approvals, etc. No registration with or consent or approval of, or other action by, any Governmental Authority is required for the execution, delivery and performance of any Loan Documents to which it is a party.

3.16 Environmental Matters.

(a) Borrower has never caused or knowingly permitted any Hazardous Substance to be placed, held, located, released or disposed of in violation of any Governmental Requirement on, under or at any real property legally or beneficially owned, leased or operated by it, and such property has never been used by it or, to the best of its knowledge, by any other person as a dump site or permanent or temporary storage site for any Hazardous Substance, in violation of any Governmental Requirement.

(b) To the best of its knowledge, Borrower has no liabilities with respect to Hazardous Substances, and no facts or circumstances exist that could give rise to liabilities with respect to Hazardous Substances.

3.17 Patents, Trademarks. Borrower owns, or possesses the right to use, all the patents, trademarks, service marks, trade names, copyrights, franchises, consents, authorizations and licenses and rights with respect to the foregoing, necessary for the conduct of its business as now conducted and proposed to be conducted, without any known conflict with the rights of others.

3.18 Solvency. Borrower is and will remain Solvent, taking into account the transactions contemplated by the Loan Documents.

3.19 Subsidiaries. Borrower has no Subsidiaries.



3.20 Pledge of Receivables. Borrower has not pledged its Accounts as collateral security for any loan, Indebtedness or obligation other than the Loans.

3.21 Ownership. The ownership interests of the Persons comprising Borrower and each of the respective interests in Borrower are correctly and accurately set forth on Exhibit E attached hereto and made a part hereof.

3.22 Fraudulent Conveyances. Borrower (a) has not entered into this Agreement or any of the other Loan Documents with the actual intent to hinder, delay, or defraud any creditor and (b) has received reasonably equivalent value in exchange for its obligations under the Loan Documents. Giving effect to the transactions contemplated by the Loan Documents, the fair saleable value of Borrower's assets exceeds and will, immediately following the execution and delivery of the Loan Documents, be greater than Borrower's probable liabilities, including the maximum amount of its contingent liabilities or its debts as such debts become absolute and mature. Borrower's assets do not and, immediately following the execution and delivery of the Loan Documents will not, constitute unreasonably small capital to carry out its business as conducted or as proposed to be conducted. Borrower does not intend to, and does not believe that it will, incur debts and liabilities (including, without limitation, contingent liabilities and other commitments) beyond its ability to pay such debts as they mature (taking into account the timing and amounts to be payable on or in respect of obligations of Borrower).

3.23 Compliance with Anti-Terrorism, Embargo, Sanctions and Anti-Money Laundering Laws. Borrower, and to the best of Borrower's knowledge, after having made diligent inquiry, (a) each Person owning an interest of 20% or more in Borrower, (b) each Guarantor, and (c) each tenant at any real property owned by it, if any: (i) is not currently identified on OFAC List, and (ii) is not a Person with whom a citizen of the United States is prohibited to engage in transactions by any trade embargo, economic sanction, or other prohibition of United States law, regulation, or Executive Order of the President of the United States. Borrower has implemented procedures, and will consistently apply those procedures throughout the term of the Loan, to ensure the foregoing representations and warranties remain true and correct during the term of the Loan.

3.24 Representations True. No representation or warranty by Borrower in this Agreement or in any Loan Document or related certificate contains any untrue statement of material fact or omits to state a material fact necessary to make such representation or warranty not misleading in light of the circumstances under which it was made; and there is no fact known to Borrower that Borrower has not disclosed to Lender that has a Material Adverse Effect or, so far as Borrower can now reasonably foresee, will have a Material Adverse Effect.

3.25 Continuing Obligations. All representations, warranties and general covenants contained in this Article III shall be deemed continuing and ongoing. Borrower shall maintain the obligation to timely notify Lender if any representation, warranty or general covenant becomes false or misleading in any respect.

**ARTICLE IV**  
**GENERAL COVENANTS**

Borrower agrees and covenants that until the Obligations have been indefeasibly paid in full and until Lender has no further obligation to make advances under the Line of Credit Loan, Borrower shall:

4.1 Payment of Loan/Performance of Loan Obligations. Duly and punctually pay or cause to be paid the principal and interest of the Note in accordance with its terms and duly and punctually pay and perform or cause to be paid or performed all Obligations hereunder and under the other Loan Documents.

4.2 Insurance. Maintain insurance covering all Collateral against risk of fire (including so-called extended coverage), theft, water damage and such other risks as Lender may require and, in the case of motor vehicles, against risk of collision and vandalism, in such form, for such perils, and written by such companies as may be satisfactory to Lender in Lender's sole discretion. Lender shall be named as loss payee under each insurance policy. All policies of insurance shall provide for a minimum 30 days' written notice to Lender before cancellation. At request of Lender, Borrower will deliver such policies, or at Lender's option, certificates of those policies, to Lender to be held by it. Borrower hereby appoints Lender the attorney-in-fact for Borrower for purposes of obtaining, adjusting, settling, and canceling such insurance and of endorsing in Borrower's name and giving receipt for checks and drafts issued in payment of losses and as return premiums. In the event Borrower fails to provide any required insurance, Lender may, at its option, purchase such insurance or insurance covering only Lender's interest in the Collateral. Borrower shall reimburse Lender on demand for the cost of such insurance. By this Agreement, Borrower assigns all insurance policies at any time covering the Collateral and all return or unearned premiums to Lender as additional security for the Obligations. The risk of loss or damage to the Collateral is on Borrower whether or not the Collateral is held by or controlled by Lender.

4.3 Corporate Existence; Qualification. Maintain its corporate existence and, in each jurisdiction in which the character of the property owned by it or in which the transaction of its business makes its qualification necessary, maintain good standing.

4.4 Taxes. During each fiscal year, accrue all current tax liabilities, all required withholding of income taxes of employees, all required old age and unemployment contributions, all required payments to employee benefit plans, and pay the same when they become due.

4.5 Compliance with Laws. Comply with all Applicable Laws, including, without limitation, Environmental Regulations, and pay when due all taxes, assessments, charges, claims for labor, supplies, rent, and other similar obligations (other than taxes and assessments which Borrower is contesting in good faith, with adequate reserves maintained in accordance with GAAP). Borrower shall pay when due all taxes and assessments upon the Collateral, this Agreement, the Notes, or any Loan Document, including, without limitation, any stamp taxes or intangibles taxes imposed by virtue of the Loans or any Loan Document and all federal excise taxes.

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4.6 Financial Statements. Within ninety (90) days after the close of each fiscal year, furnish Lender with annual compiled financial statements consisting of balance sheets, operating statements and such other statements as Lender may reasonably request, prepared in accordance with GAAP consistently applied for the period involved and for the preceding fiscal year and certified as correct by independent certified public accountants acceptable to Lender. Within twenty (20) days after the close of each calendar month, furnish Lender with unaudited monthly and year-to-date financial statements, consisting of balance sheets and operating statements and a listing of all contingent liabilities for the periods involved and such other statements as Lender may request, prepared in accordance with GAAP applied on a basis consistent with the financial statement(s) previously furnished to Lender, taken from the books and records of Borrower, and certified as correct by the chief financial officer of Borrower. In addition, Borrower shall furnish to Lender within ten (10) days after the same are filed, all federal and state tax returns and informational reports, including, without limitation, the Form 941 quarterly payroll tax information form and all other forms filed with any state, federal, or local agency pertaining to payment of applicable payroll and other federal, state and local Taxes.

4.7 Visits and Inspections. Permit persons designated by Lender to inspect the property and books and records of Borrower and to discuss its affairs with its officers and employees and furnish Lender with such miscellaneous information as it may request.

4.8 Books and Records. Keep and maintain at all times at its principal place of business, and upon Lender's request make available to Lender, complete and accurate books of account and records (including copies of supporting bills and invoices) adequate to reflect correctly the results of its business operations, and copies of all written contracts, leases (if any), and other instruments which affect the Collateral, which books, records, contracts, leases (if any) and other instruments shall be subject to examination and inspection at any reasonable time by Lender (upon reasonable advance notice, which for such purposes only may be given orally, except in the case of an emergency or following an Event of Default, in which case no advance notice shall be required); provided, however, that if an Event of Default has occurred and is continuing, Borrower shall deliver to Lender upon written demand all books, records, contracts, leases (if any) and other instruments relating to the conduct of its business and Borrower authorizes Lender to obtain a credit report on Borrower at any time.

4.9 Payment of Indebtedness. Duly and punctually pay or cause to be paid all other Indebtedness now owing or hereafter incurred by Borrower in accordance with the terms of such Indebtedness, except such Indebtedness owing to those other than Lender which is being contested in good faith and with respect to which any execution against properties of Borrower has been effectively stayed and for which reserves and collateral for the payment and security thereof have been established in sufficient amounts as determined by Lender in its sole commercially reasonable discretion.

4.10 Records of Accounts. Maintain all records, including records pertaining to the Accounts of Borrower, at the principal place of business of Borrower as set forth in this Agreement.

4.11 Conduct of Business. Conduct its business as now conducted and do all things necessary to keep in full force and effect its rights, privileges and franchises necessary to continue its business.

4.12 Maintenance of Properties. Maintain, preserve and protect all franchises and trade names and preserve all the remainder of its property used or useful in the conduct of its business and keep the same in good repair, working order and condition, and from time to time make, or cause to be made, all needful and proper repairs, renewals, replacements, betterments and improvements thereto, so that the business carried on in connection therewith may be properly and advantageously conducted at all times.

4.13 Payment of Indebtedness, Taxes, etc. (a) Pay its indebtedness and obligations in accordance with normal terms; (b) pay all Taxes, assessments and governmental charges or levies imposed upon it or upon its income and profits or upon any of its properties before they become in default; and (c) pay all lawful claims for labor, materials and supplies or otherwise, which, if unpaid, might become a Lien upon any of its properties.

4.14 Litigation Notice. Promptly notify Lender of any action, suit or proceeding at law or in equity or by or before any Governmental Authority that, if adversely determined, might reasonably be expected to impair its ability to perform its obligations under any of the Loan Documents to which it is a party, might reasonably be expected to impair its right to carry on its business substantially as now conducted, or might reasonably be expected to result in a judgment against Borrower in an amount in excess of \$25,000 or have a Material Adverse Effect.

4.15 Borrower's Report. Furnish to Lender at least weekly (and more frequently if requested by Lender, and in any event at the time of any draw request) a summary and/or detailed accounts receivable aging report (according to Lender's request), a detailed accounts payable aging report, and an inventory report, all in form and substance, and containing such detail and information, as Lender shall request, and furnish to Lender all physical inventory listings prepared by Borrower. All Borrower's Reports shall be certified by an Authorized Representative of Borrower as true and accurate. Lender will rely on the Borrower's Reports to extend or renew the Loans, and Borrower hereby acknowledges that any certified Borrower's Report containing materially false information that is forwarded to Lender shall be done so with an intent by Borrower to deceive Lender.

4.16 Collection of Accounts. Diligently pursue collection of all Accounts.

4.17 Notice of Default. Promptly notify Lender of the existence of any Event of Default, or any event that upon notice or lapse of time or both would constitute an Event of Default.

4.18 Further Assurances. At its cost and expense, upon request of Lender, duly execute and deliver, or cause to be duly executed and delivered, to Lender such further instruments and do and cause to be done such further acts as may be reasonably necessary or proper in the opinion of Lender or its counsel to carry out more effectively the provisions and purposes of the Loan Documents.

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**ARTICLE V**  
**NEGATIVE COVENANTS**

Until the Obligations have been indefeasibly paid in full and until Lender has no further obligation to make advances under the Line of Credit Loan, Borrower shall not:

5.1 Indebtedness. Create, incur, assume or suffer to exist any Indebtedness or obligation for money borrowed, or guarantee, or endorse, or become contingently liable in connection with the obligations of any Person, except:

5.1.1 Borrower's Indebtedness to Lender under this Agreement and the other Loan Documents;

5.1.2 Indebtedness for Taxes not yet due, or which are being actively contested in good faith by appropriate proceedings and against which reserves deemed adequate by Lender in Lender's sole discretion have been established by Borrower, but only if the nonpayment of Taxes does not result in a Lien upon any property of Borrower that has priority over the Lien held by Lender;

5.1.3 Contingent liabilities arising out of the endorsement of negotiable instruments in the ordinary course of collection;

5.1.4 Accounts payable to trade creditors which are not aged more than one hundred twenty (120) days from billing date and current operating expenses (other than for borrowed money) which are not more than sixty (60) days past due, in each case incurred in the ordinary course of business and paid within such time period; and

5.1.5 Debt to third parties for purchase money borrowing incurred in connection with the purchase of capital assets not to exceed \$50,000.00 during any fiscal year.

5.2 Transfers, Liens, and Security Interests. Sell, lease, transfer, convey or otherwise dispose of any of the Collateral, except for the sale of Inventory in the ordinary course of business, create, incur, assume, or suffer to exist any mortgage, security deed, deed of trust, security interest, pledge, encumbrance, Lien or charge of any kind (including charges on property purchased under conditional sales or other title-retention agreements) on any of its property or assets, except for Permitted Liens.

5.3 Dividends and Distributions. Declare any dividends on any of its capital stock, or apply any of its property or assets to the purchase, redemption or other retirement of its capital stock; provided, however, that during any period that Borrower maintains an "S" election under the Internal Revenue Code of 1986, as amended, Borrower shall be entitled to distribute to its shareholders in each year an amount not to exceed that portion of the federal income tax liability incurred by each said shareholder on income tax returns for the prior year which resulted from its holdings of shares in Borrower.

5.4 Financing Statements. Permit any financing statement or lien (except Lender's financing statements) to be on file with respect to the Collateral, or file a release,

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amendment, partial release, or termination statement with respect to any of the Collateral without Lender's prior written consent, except those related to Permitted Liens.

5.5 Location of Collateral. Without the prior written consent of Lender (a) Change the locations set forth on **Exhibit C** at which the Collateral is maintained; (b) change the name, identity, or corporate structure of Borrower or adopt or make use of any fictitious or trade name not disclosed elsewhere in this Agreement; or (c) change the location of its chief executive office or the state of its incorporation or formation (if Borrower was created by such state filing); provided, that in connection with any changes set pursuant to the foregoing clauses (a) or (c), Borrower shall also deliver a consent of the new landlord in form and substance reasonably satisfactory to Lender. (i) engage in any business other than the business now being conducted by it and other businesses directly related thereto; (ii) remove its principal place of business or business records from Berkeley County, SC, unless the removal is pursuant to a merger, consolidation or transfer of assets approved by Lender; or (iii) enter into (1) any agreement whereby the management, supervision or control of its business is delegated to or placed in any person other than its governing body and officers, or (2) any contract or agreement whereby any of its principal functions are delegated to or placed in any agent or independent contractor.

5.6 Destruction of Collateral. Waste or destroy any of the Collateral or use any of such Collateral in violation of any Applicable Law.

5.7 Merger or Consolidation. Enter into any agreement of merger or consolidation or acquire substantially all of the assets of any Person.

5.8 Investments. Purchase any interest, whether stock or debt, in any Person, except direct obligations of the United States of America, certificates of deposit issued by a bank or other financial institution, or money market funds investing in short-term debt instruments.

5.9 Subsidiary Transactions. Create any Subsidiary or divest itself of any assets by transferring them to a Subsidiary.

5.10 Partnerships or Joint Ventures. Become a general or limited partner in any general or limited partnership or a joint venturer in any joint venture.

5.11 Transactions with Related Persons. Enter into any transaction with any Guarantor or any officer, director, partner, member or Affiliate unless the terms of that transaction are no less favorable to it than those that would be obtained on an arms-length basis.

5.12 Use of Credit Proceeds. Directly or indirectly use any part of the proceeds of the Loan (a) for any purpose other than general working capital, refinancing of existing loans used for the acquisition of real property and equipment and for the future acquisition of real property or (b) without limiting the generality of the foregoing, for the purpose of purchasing or carrying any Margin Stock, or of reducing, retiring or purchasing any indebtedness incurred for such purpose; or take any other action that would involve a violation of Section 7 of the Securities Exchange Act of 1934, as amended, or any regulation issued thereunder, including Regulation U or Regulation X of the Federal Reserve Board, in connection with the transactions contemplated hereby; provided, however, that nothing set forth in this Section 5.12 or elsewhere

in this Agreement shall be construed as imposing any duty on Lender to supervise the use or application of the Loan proceeds or any liability of Lender to any person if the Loan proceeds are not used for the purposes set forth in this Agreement.

## **ARTICLE VI**

### **GRANT OF SECURITY INTEREST**

6.1 Security Interest. As security for the payment of the Loans and all other Obligations, now existing or in the future incurred, and including any extensions or renewals or changes in form of the Loan, and any other Indebtedness of Borrower to Lender, and all costs and expenses of collection thereof, including, without limitation, attorneys' fees, Borrower hereby collaterally assigns to Lender and grants to Lender a security interest in the Collateral; provided, however, the Borrower does not collaterally assign to Lender the Itemized Collateral until and unless such conditions described in the definition of Itemized Collateral are satisfied so that the Itemized Collateral constitutes Collateral. The rights assigned and granted to Lender hereunder include, but shall in no way be limited to, all of Borrower's right to (1) modify or amend the Contracts; (2) terminate the Contracts; and (3) waive or release the performance or observance of the obligations of any party under the Contracts, or any guaranty or security therefor and such rights shall include any security interests granted to Borrower in any of the Contracts. Such actions shall be permitted only after an Event of Default has occurred and is continuing.

6.2 Lien Perfection; Further Assurances. Borrower authorizes Lender to perfect, preserve, continue, amend, and maintain Lender's interest in the Collateral and shall assist and cooperate with Lender in taking such actions and shall pay all costs and expenses incurred by Lender in taking such actions. Such actions may include but are not limited to (1) the filing by Lender of financing statements describing the Collateral; (2) Lender's taking possession of the Collateral; (3) Borrower's obtaining an acknowledgement from a person in possession of any of the Collateral that such person is holding the Collateral for the benefit of Lender; and (4) Lender's obtaining control of the Collateral consisting of Deposit Accounts, Investment Property, letter-of-credit rights, and electronic chattel paper. Borrower shall place a legend in form and substance acceptable to Lender that gives notice of Lender's security interest in chattel paper (tangible or electronic) on all chattel paper (tangible or electronic) currently existing or acquired or created in the future by Borrower. Borrower shall file and hereby authorizes Lender to file such UCC-1 financing statements and other documents as are required to perfect, preserve, amend, maintain or continue Lender's Lien upon any of the Collateral and shall take such other action as may be required to perfect or to continue the perfection of Lender's lien upon the Collateral. The parties agree that a carbon, photographic or other reproduction of this Agreement shall be sufficient as a financing statement and may be filed in any appropriate recording office. Borrower agrees to obtain such estoppel certificates, lien waivers, and subordination agreements from each of Borrower's landlords as shall be necessary to release the Collateral from any claim or interest of said landlords. At Lender's request, Borrower shall also promptly execute or cause to be executed and shall deliver to Lender any additional documents, instruments and agreements deemed necessary by Lender to give effect to or carry out the terms or intent of the Loan Documents. Prior to the repayment in full of the Obligations (other than inchoate indemnity obligations), Borrower shall not file a release,

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amendment, partial release, or termination statement with respect to any of the Collateral without Lender's prior written consent. Borrower agrees that whenever any of the Collateral is in the possession of Lender whether for perfection, enforcement or otherwise, Borrower agrees to Lender's unrestricted use and operation of the Collateral and agrees that Lender shall have no duty to keep the Collateral segregated or separately identifiable and that Lender may commingle such Collateral with its own without any liability to Borrower for so doing.

6.3 No Identification Required. No submission by Borrower to Lender of a schedule or other particular identification of Collateral shall be necessary to vest in Lender a security interest in each and every item of Collateral now existing or hereafter created and acquired by Borrower, but rather such security interest shall vest in Lender immediately upon the creation or acquisition of any item of Collateral hereafter created or acquired by Borrower, without the necessity for any other or further action by Borrower or by Lender. Borrower shall take such steps and observe such formalities as Lender may request from time to time to create and maintain in favor of Lender a valid and first lien upon (subject to Permitted Liens), security interest in and pledge of all of the Collateral and all other security that Borrower may grant to Lender, whether now existing or created or acquired from time to time hereafter.

**ARTICLE VII**  
**ADDITIONAL REPRESENTATIONS, COVENANTS,**  
**AND AGREEMENTS RELATING TO COLLATERAL**

7.1 Reliance on Statements. With respect to all Accounts, Borrower represents and warrants to Lender that Lender may rely, in determining which Accounts are Eligible Accounts, on all statements made by Borrower, and unless otherwise indicated in writing to Lender, that with respect to each Account:

7.1.1 It is genuine and in all respects what it purports to be, and it is not evidenced by a judgment;

7.1.2 It arises out of a completed, bona fide sale and delivery of goods or rendition of services by Borrower in the ordinary course of its business and in accordance with the terms and conditions of all purchase orders, contracts or other documents relating thereto and forming a part of the contract between Borrower and the Account Debtor;

7.1.3 It is for a liquidated amount maturing as stated in the duplicate invoice covering such sale or rendition of services, a copy of which has been furnished or is available to Lender;

7.1.4 Such Account, and Lender's security interest in the Account, is not, and will not be in the future, subject to any offset, Lien, deduction, defense, dispute, counterclaim or any other adverse condition and each such Account is absolutely owing to Borrower and is not contingent in any respect or for any reason;

7.1.5 Borrower has made no agreement with any Account Debtor for any deduction from the Account, except discounts or allowances which are granted by Borrower in



the ordinary course of its business for prompt payment and which are reflected in the calculation of the net amount of each invoice;

7.1.6 There are no facts, events or occurrences which in any way impair the validity or enforceability of the Account or tend to reduce the amount payable from the face amount of the invoice representing the Account;

7.1.7 To the best of Borrower's knowledge, the Account Debtor (i) had the capacity to contract at the time any contract or other document giving rise to the Account was executed and (ii) such Account Debtor was and is Solvent;

7.1.8 Borrower has no knowledge of any fact or circumstance which would impair the validity or collectibility of the Account, and to the best of Borrower's knowledge there are no proceedings or actions which are threatened or pending against any Account Debtor which might result in any material adverse change in Account Debtor's financial condition or the collectibility of the Account;

7.1.9 Borrower will have paid or provided for the payment of all Taxes arising from the transaction creating the Account; and

7.1.10 The Account otherwise qualifies as an Eligible Account as defined in this Agreement.

7.2 Affirmation of Representations. Each request for a loan or advance made by Borrower pursuant to this Agreement or any of the other Loan Documents shall constitute (i) an automatic representation and warranty by Borrower to Lender that there does not then exist any Event of Default and (ii) a reaffirmation as of the date of said request that all of the representations and warranties of Borrower contained in this Agreement and the other Loan Documents are true in all respects.

7.3 Administration of Inventory. When no Event of Default has occurred and is continuing, Borrower may use and dispose of the Inventory in the ordinary course of its business, provided that the ordinary course of business does not include a transfer in satisfaction of Indebtedness nor transfer to an Affiliate of Borrower. Borrower shall not store any Inventory with a bailee, warehouseman or similar party without Lender's prior written consent, and if Lender give such consent, Borrower shall concurrently therewith cause any such bailee, warehouseman or similar party to issue and deliver to Lender, in form and substances acceptable to Lender, warehouse receipts therefor in Lender's name and an acknowledgment from such bailee, warehouseman or similar party indicating that such person is holding such Collateral for the benefit of Lender.

7.4 Administration of Accounts.

7.4.1 Deposit of Accounts. All checks, remittances, payments, and funds representing Accounts or proceeds of Accounts shall be deposited into the Collection Account, and Borrower shall take such steps as shall be necessary to cause the Depository Bank to report to Lender periodically items that are deposited to the Collection Account and the

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balance in that account. Borrower hereby grants to Lender a first priority security interest in and control of any of Borrower's Deposit Accounts, Investment Property, letter-of-credit rights and electronic chattel paper, and Borrower shall take all actions requested by Lender that Lender deems in its sole discretion advisable to establish Lender's control over such Collateral, including obtaining the execution of control agreement by the holder of such Accounts or other Collateral. Borrower also authorizes Lender to file financing statements describing such Collateral. Borrower shall cause Depository Bank to sign an agreement with Lender acknowledging Lender's security interest in the Collection Account granted by Borrower in this Agreement and agreeing that Depository Bank will not exercise its right of setoff or otherwise assert any right in sums in the Collection Account constituting Collateral or proceeds of Collateral, and agreeing that upon notice by Lender, Depository Bank will forward to Lender or to the Dominion Account, all sums contained in the Collection Account and all items presented to it for deposit to the Collection Account. To expedite collection, Borrower shall endeavor in the first instance to make collection of its Accounts for Lender, provided, however, that any amounts received by Borrower on the Accounts or other Collateral shall be held by Borrower in trust for Lender and not commingled with Borrower's funds and shall be deposited promptly in the Collection Account. Borrower shall cause all proceeds of the Collateral and all cash received by it and deposited into any bank account to be deposited into the Collection Account at least once a week. Funds in the Collection Account shall not be subject to withdrawal by Borrower, but at all times shall be pledged to and under the dominion and control of Lender and may be applied to the Obligations and deposited into the Dominion Account.

7.4.2 Verification of Accounts. Whether or not an Event of Default has occurred, Lender shall have the right, at any time, in its name, or in the name of any designee or representative of Lender or Borrower, to verify with any Account Debtor the validity, amount or any other matter relating to any Accounts by mail, telephone, or otherwise. Borrower shall cooperate fully with Lender in such verification process.

7.4.3 Dominion Account. If requested by Lender, Borrower shall establish and maintain a Dominion Account pursuant to a lockbox arrangement acceptable to Lender with a bank selected by Borrower and acceptable to Lender in Lender's sole discretion. The bank holding the Dominion Account must agree to waive any offset rights against the Dominion Account. Borrower shall issue to such bank an irrevocable letter of instruction directing such bank to deposit all payments or other remittances received in the lockbox to the Dominion Account for application to the Obligations, and Lender may also direct the Depository Bank to transfer all funds in the Collection Account to the Dominion Account and to direct all items received by it for deposit into the Collection Account into the Dominion Account. All funds deposited in the Dominion Account shall immediately become the property of Lender. Lender assumes no responsibility for such lockbox arrangement, including, without limitation, any claim of accord and satisfaction or release with respect to deposits accepted by the bank through the lockbox arrangement. For purposes of calculating the amount of the Loans available to Borrower, such payments into the Dominion Account will be applied (conditional upon final collection) to the Obligations on the Business Day of receipt by Lender of immediately available funds in the Dominion Account provided such payments and notice thereof are received in accordance with Lender's usual and customary practices as in effect from time to time and within sufficient time to credit Borrower's loan account on such day, and if not then, on the next

Business Day. For the purposes of calculating interest on the Obligations, such payments or other funds received will be applied (conditional upon final collection) to the Obligations two (2) Business Days following the date of receipt of immediately available funds by Lender in the Dominion Account provided such payments or other funds and notice thereof are received in accordance with Lender's usual and customary practices as in effect from time to time and within sufficient time to credit Borrower's loan account on such day, and if not, on the next Business Day.

7.4.4 Notice to Account Debtors. Borrower shall, as Lender deems necessary, give written notice of Lender's Liens on the Collateral to the Account Debtors in such form and substance as Lender may require. In addition to its other rights, Lender shall have the right to notify the Account Debtors obligated on any of the Accounts to make payment directly to Lender and to take control of all proceeds of any such Accounts, which right Lender may exercise at any time whether or not an Event of Default exists. Borrower authorizes Lender to sign and endorse Borrower's name on any check, draft, money order, or other form of payment of any Account item and to sign and endorse satisfactions and releases of Account items in Borrower's name. The costs of collection and enforcement of the Accounts, including reasonable attorney's fees, out-of-pocket expenses and all other expenses and liabilities, shall be borne solely by Borrower whether incurred by Lender or Borrower.

7.4.5 Governmental Accounts. If any of Borrower's Accounts in excess of \$5,000 arise out of contracts with the United States or any department, agency, or instrumentality of the United States, Borrower will immediately notify Lender in writing and execute any instruments and take any steps necessary to perfect Lender's interest in those Accounts, whether required by the Federal Assignment of Claims Act or any other Applicable Law.

7.4.6 Accounts Evidenced by Instruments. If any of Borrower's Accounts are evidenced by promissory notes, trade acceptances, chattel paper, chattel mortgages, conditional sales contracts, or other instruments, Borrower will immediately deliver them to Lender, endorsed or assigned with recourse to Lender's order and, regardless of the form of such endorsement or assignment, Borrower hereby waives presentment, demand, notice of dishonor, protest and notice of protest and all other similar notices.

7.4.7 Limitation of Liability; Waivers. Lender shall not be liable for failure to collect the Accounts or to enforce any contract rights or for any action or omission on its part or by its officers, agents and employees, except for willful misconduct. Borrower hereby releases and waives any and all actions, claims, causes of action, demands and suits which it may ever have against Lender as a result of any possession, collection, settlement, compromise or sale by Lender of any of the Accounts, notwithstanding the effect of such possession, collection, settlement, compromise or sale upon the business of Borrower. Said waiver shall include all causes of action and claims which may result from the exercise of the power of attorney conferred upon Lender in Section 10.5.

7.4.8 Legend. Borrower shall either deliver to Lender, at Lender's request, all executed original copies of any Collateral constituting documents, tangible chattel

paper or instruments (as defined in the Uniform Commercial Code as enacted in the State of Alabama) or mark conspicuously on each original copy the following legend:

### NOTICE

**This Agreement and the rights of Harry Barker, Inc., to receive all payments hereunder have been assigned to Southeastern Commercial Finance, L.L.C. as collateral security under Loan and Security Agreement dated March 17, 2015.**

Borrower also authorizes Lender to file financing statements describing such Collateral.

7.5 Discharge of Taxes and Liens. At its option, and without obligation, Lender may discharge Taxes, Liens, security interests or other encumbrances levied or placed on the Collateral and may pay for the maintenance and preservation of the Collateral. Borrower shall reimburse Lender, on demand, for any payment made or expense incurred by Lender pursuant to this authorization, including any attorneys' fees incurred by Lender.

7.6 Complete Records; Inspection Rights. Borrower will at all times keep accurate and complete records of the Collateral, and Lender shall have the right to call at Borrower's place or places of business at intervals determined by Lender to inspect and examine the Collateral and to inspect, audit, check, and make abstracts from the books, records, journals, orders, receipts, computer printouts, correspondence and other data relating to the Collateral. Lender shall make such inspections at least semi-annually, and Borrower shall pay any and all costs and expenses incurred by Lender in connection with such inspections, which fees shall not be less than \$750.00 per inspection.

7.7 Notice/Contracts. Borrower shall notify Lender promptly in writing of any matters affecting the value, enforceability or collectibility of any of the Contracts, including material defaults, delays in performance, disputes, offsets, defenses, counterclaims, returns and rejections and all reclaimed or repossessed property.

7.8 Access to Records. Borrower hereby grants to Lender access to all file cabinets, books, ledgers, microfilm, microfiche, magnetic tapes, magnetic discs, and other information retrieval or storage systems, on which, or in which, any of Borrower's records concerning its Accounts, Inventory, General Intangibles, Equipment, and any other Collateral are kept or stored. Borrower agrees to deliver all of the foregoing property to Lender upon request. Borrower agrees that Lender may come on any premises where any of such property is located at any reasonable time to take possession of such property, and that the entry of such premises and the taking of such property by Lender will not constitute a trespass to, or a conversion of, any such property or premises. Borrower agrees to make all records available to Lender during normal business hours, whether or not an Event of Default exists.

7.9 Annual Certification. At least annually, Borrower shall give Lender a certification, in written or other record form, attesting that Borrower has not sold any of the

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Collateral unless expressly permitted by this Agreement and that Borrower has not changed its legal name without Lender's prior written consent.

7.10 Business Purpose. Borrower warrants that the Collateral in which it has granted Lender a security interest secures Loans intended solely for business purposes.

## **ARTICLE VIII**

### **EVENTS OF DEFAULT; CERTAIN REMEDIES**

8.1 Events of Default. The occurrence of any one or more of the following events shall constitute an Event of Default under this Agreement:

8.1.1 Payment Default. If Borrower shall fail to make any payment of any installment of principal, interest or other payment on any Note when and as the same shall become due and payable, whether upon demand, by declaration, upon acceleration, or otherwise; or

8.1.2 Fees and Expenses. If Borrower shall fail to pay when due any expense, fee or charge provided for in this Agreement and such failure shall continue for a period of ten (10) days; or

8.1.3 Other Defaults. If Borrower shall fail for a period of thirty (30) days from notice of default to perform, keep, or observe any other covenant, agreement or provision of this Agreement; or

8.1.4 Representations False. If any warranty, representation, or other statement made or furnished to Lender by or on behalf of Borrower or any Guarantor or in any of the Loan Documents proves to be or subsequently becomes false or misleading in any material respect.

8.1.5 Financial Difficulties. If Borrower shall be involved in financial difficulties as evidenced

(a) by its admission in writing of its inability to pay its debts generally as they become due or of its ceasing to be Solvent;

(b) by its filing a petition in bankruptcy or for reorganization or for the adoption of an arrangement under the U.S. Bankruptcy Code (as now or in the future amended) or any similar law regarding debtors rights and remedies or an admission seeking the relief therein provided;

(c) by its making a general assignment for the benefit of its creditors;

(d) by its consenting to the appointment of a receiver for all or a substantial part of its property;

(e) by its being adjudicated a bankrupt;

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(f) by the entry of a court order appointing a receiver or trustee for all or a substantial part of its property without its consent, which order shall not be vacated or stayed within ninety (90) days from the date of entry; or

(g) by the assumption of custody or sequestration by a court of competent jurisdiction of all or substantially all of its property, which custody or sequestration shall not be suspended or terminated within sixty (60) days from its inception; or

8.1.6 Cancellation of Guaranty. If the cancellation, termination or limitation of any guaranty of Borrower's obligations under this Agreement or the Loans shall occur, or if any such Guarantor shall be in default under or breach the terms of any guaranty agreement between Lender and such Guarantor; or if any such Guarantor should die; or if any subordination agreement executed by any creditor of Borrower or of any such Guarantor in favor of Lender should be canceled, terminated, or breached; or if any Guarantor's financial condition as represented in the last personal financial statement delivered to and received by Lender is substantially impaired; or

8.1.7 Default on Other Obligations. If Borrower shall default in payment of more than \$10,000.00 due on any Indebtedness of Borrower to others or if Borrower or any Guarantor shall default under any loan or security agreement with others or under any material lease involving a payment of more than \$10,000.00; or

8.1.8 Judgments. If a final judgment for the payment of money in excess of \$25,000 (not covered by independent third-party insurance as to which liability has been accepted by such insurance carrier) shall be rendered against Borrower and the same shall remain undischarged for a period of ten (10) days during which execution shall not be effectively stayed; or

8.1.9 Uninsured Losses; Unauthorized Dispositions. Any material loss, theft, damage or destruction not fully covered by insurance of the Collateral, or sale, lease or encumbrance of any of the Collateral (except as permitted by this Agreement) or the making of any levy, seizure, or attachment on the Collateral; or

8.1.10 Material Adverse Change. If there shall occur any Material Adverse Change; or

8.1.11 Business Disruption; Condemnation. If a substantial part of Borrower's business shall cease for more than five (5) consecutive days; or Borrower shall suffer the loss or revocation of any license or permit which is necessary to the operation of its business; or Borrower shall be enjoined, restrained or in any way prevented by court, governmental or administrative order from conducting any material part of its business affairs; or any material lease or agreement pursuant to which Borrower leases, uses or occupies any of its properties shall be canceled or terminated prior to the expiration of its stated term; or any part of the Collateral shall be taken through condemnation or the value of such Collateral shall be impaired through condemnation; or

8.1.12 Change in Control. If Carol Perkins should resign or be removed or if there occurs a change in majority stock ownership of Borrower; or

8.1.13 Facility Lease. If Borrower should fail to pay or default with respect to any present or future lease agreement (after giving effect to any applicable grace or cure periods contained therein) for the premises occupied by Borrower; or

8.1.14 Other Documents. If a default or breach occurs under any other Loan Document (after giving effect to any applicable grace or cure periods contained therein) (other than the breaches enumerated in Sections 8.1.1 through 8.1.13 above), or with respect to any of the Obligations, or under any other note, evidence of indebtedness, loan agreement, security agreement, guaranty, pledge, mortgage, assignment, or security document executed by Borrower in favor of Lender.

Notwithstanding any provision of this Agreement or any other Loan Document to the contrary, Borrower hereby acknowledges that any Events of Default under the foregoing Sections 8.1.1, 8.1.4, 8.1.5, 8.1.6, 8.1.10, 8.1.11, 8.1.12, and 8.1.14 shall not be curable solely by the Borrower and shall require a written waiver from Lender to terminate the continuance of such Events of Default.

8.2 General Remedies. At any time after the occurrence and during the continuance of an Event of Default, Lender may at its option (i) proceed to protect and enforce its rights by suit in equity, action at law and/or any other appropriate proceeding for damages or for specific performance of any covenant or condition contained in this Agreement, the Note(s) or any Loan Document, (ii) cease making advances under the Line of Credit Loan, and/or (iii) declare the unpaid balance of the Loans and Note(s) together with all accrued interest to be immediately due and payable, and thereupon such balance shall become so due and payable without presentation, protest or further demand or notice of any kind, all of which are hereby expressly waived.

8.3 Other Remedies/UCC Remedies. At any time after the occurrence and during the continuance of an Event of Default, Lender may enter upon the premises of Borrower or any other place where any Collateral is located, and through self-help and without judicial process, without first obtaining a final judgment or giving Borrower notice and opportunity for a hearing without any obligation to pay rent, remove the Collateral therefrom to the premises of Lender or its agent for such time as Lender may desire to collect or liquidate the Collateral; render any Equipment unusable; require Borrower to assemble the Tangible Property and make it available to Lender at Borrower's premises or any other place selected by Lender, and to make available to Lender all of Borrower's premises and facilities for the purpose of Lender's taking possession of, removing or putting the Tangible Property in salable form; use, and permit any purchaser of any of the Collateral from Lender to use, without charge, Borrower's labels, General Intangibles and advertising matter or any property of a similar nature, as it pertains to or is included in the Collateral, in advertising, preparing for sale and selling any Collateral, and in finishing the manufacture, processing, fabrication, packaging and delivery of the Inventory; and Borrower's rights under all licenses, franchise agreements and other General Intangibles shall inure to Lender's benefit; and dispose of the Collateral while the Collateral is situated on Borrower's premises. At any time after the occurrence and during the continuance of an Event of

Default, Lender, without demand of performance or other demand, advertisement or notice of any kind, to the extent permitted by law, of a proposed disposition of the Collateral, which may be given in the manner specified in Section 10.9 or upon Borrower or any other person (all of which demands, advertisements and notices are hereby expressly waived, to the extent permitted by law), may forthwith collect, receive, appropriate, repossess and realize upon all or any part of the Collateral, and may forthwith sell, lease, license, assign, give options to purchase, or sell or otherwise dispose of and delivery all or any part of the Collateral (or contract to do so), in one or more parcels at public or private sale or sales, and any exchange, broker's board or at any of Lender's offices or elsewhere at such prices at Lender may deem best, for cash or on credit or for future delivery without assumption of any credit risk. Unless the Collateral is perishable or threatens to decline speedily in value, or is of a style customarily sold on a recognized market, Lender will give Borrower reasonable notice of the time after which any private sale or other intended disposition of Collateral is to be made. The requirement of reasonable notice shall be met if such notice is mailed postage prepaid to Borrower at least ten (10) days before the time of such sale or disposition. To the extent permitted by law, the Collateral shall be sold free of any right of redemption, which right of redemption Borrower hereby waives and releases. To the extent permitted by Applicable Law, Borrower waives all claims, damages, and demands against Lender arising out of the repossession, retention or sale of the Collateral. At any time after the occurrence and during the continuance of an Event of Default, Lender may exercise any rights, powers and remedies of Borrower in connection with any Contract or otherwise in respect of the Collateral, including any rights of Borrower to demand or otherwise require payment of any amount under, or performance of any provision of, any Contract, and to modify, amend, terminate, replace, settle or compromise any Contract or any sum payable thereunder. At any time after the occurrence and during the continuance of an Event of Default, the Lender may notify Account Debtors that Accounts and Contracts have been assigned to the Lender, demand and receive information from Account Debtors with respect to Accounts and Contracts, forward invoices to Account Debtors directing them to make payments to the Lender, collect all Accounts and Contracts in Lender's or Borrower's name and take control of any cash or non-cash proceeds of Collateral, enforce payment of any Accounts and Contracts, prosecute any action or proceeding with respect to Accounts and Contracts, extend the time of payment of Accounts and Contracts, make allowances and adjustments with respect to Accounts and Contracts and issue credits against Accounts and Contracts, all in the name of Lender or Borrower, settle, compromise, extend, renew, release, terminate or discharge, in whole or in part, any Account or Contract, or deal with the same as Lender may deem advisable and require Borrower to open all mail only in the presence of a representative of Lender, who may take therefrom any remittance on any property. At any time after the occurrence and during the continuance of an Event of Default, Lender may instruct any holder of any of the Deposit Accounts to pay the balance of such Deposit Accounts to or for the benefit of Lender. At any time after the occurrence and during the continuance of an Event of Default, Lender may exercise any rights Lender may have under any control agreement relating to the Collateral. At any time after the occurrence and during the continuance of an Event of Default, Lender may exercise, in addition to all other rights which it has under this Agreement or other Applicable Law, all of the rights and remedies of a secured party upon default under the UCC. Borrower shall pay Lender on demand all expenses, including legal expenses and reasonable attorneys' fees, incurred or paid by Lender in protecting or enforcing the Loans and all other Obligations secured by this Agreement, including its right to take possession of the Collateral.

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8.4 Remedies Not Exclusive. No remedy conferred upon Lender in this Agreement is intended to be exclusive of any other remedy, and each and every remedy shall be cumulative and shall be in addition to every other remedy given in this Agreement or now or hereafter existing in law or in equity. Lender's exercise or failure to exercise any right shall not affect Lender's subsequent right of Lender to exercise its remedies.

8.5 Waiver of Notice. Borrower waives notice prior to Lender's taking possession or control of any of the Collateral or any bond or security that might be required by any court prior to allowing Lender to exercise any of Lender's remedies, including, without limitation, the issuance of an immediate writ of possession.

8.6 Application of Proceeds. Borrower agrees that Lender may apply the net proceeds received from the Collateral among the Loans and the Obligations in its sole discretion. Any proceeds remaining after satisfaction in full of the Loans, the Obligations, and the other obligations and liabilities of Borrower to Lender, shall be distributed as required by Applicable Laws.

## **ARTICLE IX INDEMNIFICATION**

9.1 Indemnification. Borrower agrees to defend, indemnify and hold harmless Lender, its directors, officers, employees, accountants, attorneys, and agents, (the "Indemnitees") from and against any and all claims, demands, judgments, damages, actions, causes of action, injuries, orders, penalties, costs and expenses (including reasonable attorneys' fees and costs of court) of any kind whatsoever arising out of or relating to any breach or default by Borrower or any other Person (including any Guarantor) under this Agreement or any Loan Document or the failure of Borrower to observe, perform or discharge Borrower's duties under this Agreement or any Loan Document, except as to claims, demands, judgments, damages, actions, causes of action, injuries, orders, penalties, costs or expenses (including reasonable attorneys' fees and costs of court) directly caused by such Indemnified Person's gross negligence or willful misconduct. Without limiting the generality of the foregoing, Borrower's obligation to indemnify Lender shall include indemnity from any and all claims, demands, judgments, damages, actions, causes of action, injuries, orders, penalties, costs and expenses arising out of or in connection with the activities of Borrower, its predecessors in interest, invitees, third parties who have trespassed on Borrower's property, or parties in a contractual relationship with Borrower, whether or not occasioned wholly or in part by any condition, accident or event caused by an act or omission of the Indemnitees, which: (a) arise out of or relate to the actual, alleged or threatened discharge, dispersal, release, storage, treatment, generation, disposal, or escape of radioactive materials, radioactivity, pollutants or other toxic or hazardous substances, including any solid, liquid, gaseous, or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals, and waste (including materials to be recycled, reconditioned or reclaimed); or (b) actually or allegedly arise out of or relate to the use, specification, or inclusion of any product, material, or process containing chemicals or radioactive material, the failure to detect the existence or proportion of chemicals or radioactive material in the soil, air, surface water or groundwater, or the performance or failure to perform the abatement of any pollution source or the replacement or removal of any soil, water, surface water, or groundwater containing chemicals or radioactive material; or (c) arise out of or relate to

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a breach by Borrower of any of the provisions of Section 3.16 relating to Environmental Regulations. In addition, Borrower will indemnify and hold Lender harmless from and against any liability, claim, cost or expense incurred by Lender or imposed against Lender for any stamp tax, intangible tax, or other tax, fee or charge imposed by any governmental entity arising out of or relating to the Note(s), this Agreement, any Loan Document, or the transactions anticipated in this Agreement.

## **ARTICLE X** **MISCELLANEOUS**

10.1 Term. This Agreement shall remain in force and effect until the Obligations have been indefeasibly paid or satisfied in full and until Lender has no further obligation to advance funds to Borrower under this Agreement. The indemnities provided for in Article IX shall survive the payment in full of the Loans and the Obligations and the termination of this Agreement.

10.2 Standard of Review. Any document, writing or instrument required or permitted to be delivered to Lender under this Agreement shall be deemed satisfactory only if approved by Lender in the exercise of its sole discretion, and any act or approval permitted to be done by Lender under this Agreement shall be in Lender's sole discretion.

10.3 Costs of Preparation; Brokers Fees. Borrower shall bear all expenses of Lender in connection with investigation, review and approval of this transaction, the preparation of the Agreement and the Loan Documents, and the issuance and delivery of the Note(s) to Lender and also in connection with any amendment or modification of this Agreement, the Notes or any Loan Document, including, without limitation (i) all legal fees and expenses incurred in connection with this transaction, (ii) all travel, appraisal, audit, search and filing fees incurred in connection with this transaction or the administration of the Loans; and (iii) all recording and filing fees, intangibles, taxes, documentary and revenue stamps, other Taxes or other expenses and charges payable in connection with this Agreement, the Notes or any Loan Document. Borrower shall indemnify and hold Lender harmless against all broker and finder's fees relating to this transaction.

10.4 Other Costs and Expenses. If, at any time, whether before or after an Event of Default, Lender employs counsel to advise or represent it with respect to this Agreement or any Loan Document, or to collect the balance of the Loans, or to represent it in any proceeding relating to this Agreement or any of the Loan Documents, or to protect, collect, or liquidate the Collateral or to attempt to enforce any security interest or Lien granted to Lender by Borrower, all of the reasonable attorneys' fees arising from such services, and any expenses, costs and charges relating to those services, shall constitute additional obligations of Borrower payable on demand.

10.5 Attorney-in-Fact. Borrower hereby irrevocably designates, makes, constitutes and appoints Lender (and all Persons designated by Lender) as Borrower's true and lawful attorney and agent-in-fact, said power to be exercisable by Lender whether or not an Event of Default exists, and Lender, or Lender's agent, may, without notice to Borrower and in either Borrower's or Lender's name, but at the cost and expense of Borrower: (i) endorse

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Borrower's name on any checks, notes, acceptances, drafts, money orders or any other evidence of payment or proceeds of the Collateral which come into the possession of Lender or under Lender's control; (ii) demand payment or performance of the Accounts from the Account Debtors, enforce payment of the Accounts by legal proceedings or otherwise, and generally exercise all of Borrower's rights and remedies with respect to the collection of the Accounts; (iii) receive, open and dispose of all mail addressed to Borrower and to notify postal authorities to change the address for delivery that mail to any address designated by Lender; (iv) endorse the name of Borrower upon any of the items of payment or proceeds relating to any Collateral and deposit the same to the account of Lender or any other bank on account of the Obligations; (v) sign, authenticate or endorse the name of Borrower upon any chattel paper (tangible or electronic), document, instrument, invoice, freight bill, bill of lading or similar document or agreement relating to the Accounts, Inventory and any other Collateral; (vi) use Borrower's stationery and sign the name of Borrower to verifications of the Accounts and notices to Account Debtors; and (vii) use the information recorded on or contained in any data processing equipment and computer hardware and software relating to the Accounts, Inventory, and any other Collateral and to which Borrower has access.; (xiii) give instructions and direct any bank or financial institution in which proceeds of the Collateral are deposited to turn over said proceeds to Lender; Upon the occurrence and during the continuance of an Event of Default Lender, or Lender's agent, may, without notice to Borrower and in either Borrower's or Lender's name, but at the cost and expense of Borrower: (i) settle, adjust, compromise, discharge or release any of the Accounts or other Collateral; (ii) sell or collect any of the Accounts or other Collateral upon such terms, and for such amounts and as Lender deems advisable; (iii) take possession, in any manner, of any item of payment or proceeds relating to any Collateral and apply the same to the Obligations; (iv) prepare, file and sign Borrower'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; (v) make and adjust claims under policies of insurance; ; and (vi) do all other acts and things necessary, in Lender's determination, to fulfill Borrower's obligations under this Agreement.

10.6 No Waiver. No waiver of any Event of Default, and no waiver of any default under any other Loan Document shall extend to or shall affect any subsequent or other then existing default or shall impair any of Lender's rights, remedies or powers. No delay or omission of Lender to exercise any right, remedy, power or privilege after the occurrence of such default or Event of Default shall be construed as a waiver of any such default.

10.7 Headings. The headings of the articles, sections, paragraphs and subdivisions of this Agreement are for convenience of reference only, are not to be considered a part of this Agreement, and shall not limit or otherwise affect any of the terms of this Agreement.

10.8 No Usury. In no event shall the amount of interest or fees due or payable on the Loans under this Agreement or the Notes exceed the Maximum Rate. In the event any such payment is inadvertently paid by Borrower or inadvertently received by Lender, such excess sum shall be credited as payment of principal, unless Borrower elects to have such excess sum refunded to Borrower. It is the express intent of the parties that Borrower not pay and Lender not receive, directly or indirectly, interest in excess of that which may be legally paid by Borrower under Applicable Law.

10.9 Addresses. Any notice or demand which by any provision of this Agreement is required or provided to be given shall be deemed to have been sufficiently given or served for all purposes by (i) being delivered in person to the party to whom the notice or demand is directed or (ii) by being sent as first class mail, postage prepaid, or by express courier service, in either event to the addresses for each party indicated in the first paragraph of this Agreement.

10.10 CONTROLLING LAW. THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF ALABAMA; PROVIDED, HOWEVER, THAT IF ANY OF THE COLLATERAL SHALL BE LOCATED IN ANY JURISDICTION OTHER THAN ALABAMA, THE LAWS OF SUCH JURISDICTION SHALL GOVERN THE METHOD, MANNER AND PROCEDURE FOR FORECLOSURE OF LENDER'S LIEN UPON SUCH COLLATERAL AND THE ENFORCEMENT OF LENDER'S OTHER REMEDIES IN RESPECT OF SUCH COLLATERAL TO THE EXTENT THAT THE LAWS OF SUCH JURISDICTION ARE DIFFERENT FROM OR INCONSISTENT WITH THE LAWS OF ALABAMA. BORROWER CONSENTS THAT ANY LEGAL ACTION OR PROCEEDING ARISING UNDER THIS AGREEMENT OR UNDER ANY LOAN DOCUMENT MAY BE BROUGHT, AT THE ELECTION OF LENDER, IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA, OR IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF ALABAMA AND ASSENTS AND SUBMITS TO THE PERSONAL JURISDICTION OF ANY SUCH COURTS IN ANY SUCH ACTION OR PROCEEDING.

10.11 Miscellaneous. This Agreement and the instruments and agreements referred to in this Agreement or called for by this Agreement supersede and incorporate all representations, promises, and statements, oral or written, made by Lender in connection with the Loans. This Agreement may not be varied, altered, or amended except by a written instrument executed by an authorized officer of Lender. This Agreement may be executed in any number of counterparts, each of which, when executed and delivered, shall be an original, but such counterparts shall together constitute one and the same instrument. Any provision in this Agreement which may be unenforceable or invalid under any law shall be ineffective to the extent of such unenforceability or invalidity without affecting the enforceability or validity of any other provisions of this Agreement.

10.12 No Obligation to Pursue Others. Borrower agrees that Lender has no obligation to attempt to satisfy the Obligations by collecting them from any other person liable for them and Lender may release, modify or waive any Collateral provided by any other person to secure any of the Obligations, all without affecting Lender's rights against Borrower. Borrower waives any right it may have to require Lender to pursue any other person for any of the Obligations, and that each of the Obligations may be enforced against Borrower without the necessity of joining any Guarantor, any other holders of Liens in any Collateral or any other person, as a party.

10.13 Compliance with Other Laws. Lender may comply with any applicable state or federal law requirements in connection with a disposition of the Collateral and such compliance will not be considered adversely to affect the commercial reasonableness of any sale of the Collateral.

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10.14 Warranties of Title. Lender may in its sole discretion disclaim any warranties of title or the like in the sale or other disposition of the Collateral. Such disclaimer will not be considered adversely to affect the commercial reasonableness of any sale of the Collateral.

10.15 WAIVER OF RIGHT TO TRIAL BY JURY. BORROWER AND LENDER HEREBY WAIVE ANY RIGHT TO TRIAL BY JURY ON ANY CLAIM, COUNTERCLAIM, SETOFF, DEMAND, ACTION OR CAUSE OF ACTION (A) ARISING OUT OF OR IN ANY WAY PERTAINING OR RELATING TO THIS AGREEMENT, THE NOTES, THE LOAN DOCUMENTS, OR ANY OTHER INSTRUMENT, DOCUMENT OR AGREEMENT EXECUTED OR DELIVERED IN CONNECTION WITH THIS AGREEMENT OR (B) IN ANY WAY CONNECTED WITH OR PERTAINING OR RELATED TO OR INCIDENTAL TO ANY DEALINGS OF THE PARTIES WITH RESPECT TO THIS AGREEMENT, THE NOTES, THE LOAN DOCUMENTS, OR ANY OTHER INSTRUMENT, DOCUMENT OR AGREEMENT EXECUTED OR DELIVERED IN CONNECTION WITH THIS AGREEMENT OR IN CONNECTION WITH THE TRANSACTIONS RELATED TO THIS AGREEMENT OR CONTEMPLATED BY THIS AGREEMENT OR THE EXERCISE OF EITHER PARTY'S RIGHTS AND REMEDIES, IN ALL OF THE FOREGOING CASES WHETHER NOW EXISTING OR HEREAFTER ARISING, AND WHETHER SOUNDING IN CONTRACT, TORT OR OTHERWISE. BORROWER AND LENDER AGREE THAT EITHER OR BOTH OF THEM MAY FILE A COPY OF THIS SECTION WITH ANY COURT AS WRITTEN EVIDENCE OF THE KNOWING, VOLUNTARY AND BARGAINED AGREEMENT BETWEEN THE PARTIES IRREVOCABLY TO WAIVE TRIAL BY JURY, AND THAT ANY DISPUTE OR CONTROVERSY WHATSOEVER BETWEEN THEM SHALL INSTEAD BE TRIED IN A COURT OF COMPETENT JURISDICTION BY A JUDGE SITTING WITHOUT A JURY.

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IN WITNESS WHEREOF, each of Borrower and Lender has caused this instrument to be executed by its duly authorized officer and Borrower has caused its seal to be affixed as of the date first above written.

**BORROWER:**

HARRY BARKER, INC.  
a Delaware corporation

By: [Signature]  
Name: Carol Perkins  
Its: President

Attest:

STATE OF South Carolina )  
COUNTY OF Charleston )

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that Carol Perkins, whose name as President of Harry Barker Inc., a[n] corporation, is signed to the foregoing Demand Promissory Note, and who is known to me, acknowledged before me on this day that, being informed of the contents of said Demand Promissory Note, [s]he, as such Perkins and with full authority, executed the same voluntarily for and as the act of said Perkins.

Given under my hand and official seal, this the 17<sup>th</sup> day of March, 2015.

(SEAL)



[Signature]  
Notary Public  
My Commission Expires: 10-17-2018

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**LENDER:**

**SOUTHEASTERN COMMERCIAL FINANCE, L.L.C.**  
an Alabama limited liability company

By: Raymond Alberti  
Name: Raymond Alberti  
Its: Senior Vice President

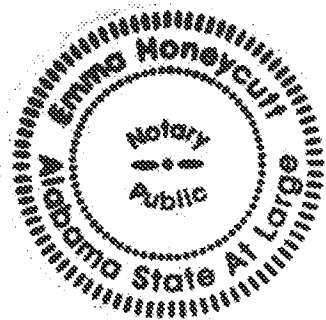
Attest:

STATE OF Alabama )  
COUNTY OF Jefferson )

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that Raymond Alberti, whose name as Senior Vice President of Southeastern Commercial Fin., a[n] Alabama limited liability Company is signed to the foregoing Demand Promissory Note, and who is known to me, acknowledged before me on this day that, being informed of the contents of said Demand Promissory Note, [s]he, as such Senior Vice President and with full authority, executed the same voluntarily for and as the act of said Senior Vice President of Southeastern Commercial Finance

Given under my hand and official seal, this the 18 day of March, 2015.

(SEAL)



Emma Honeycutt  
Notary Public  
My Commission Expires: 10-11-15

## EXHIBIT A

### GENERAL DEFINITIONS

When used in the Loan and Security Agreement dated March 17, 2015, by and between Southeastern Commercial Finance, L.L.C., ("Lender") and Harry Barker, Inc. ("Borrower"), the following terms shall have the following meanings (terms defined in the singular to have the same meaning when used in the plural and vice versa):

Unless otherwise defined herein, terms used in this Agreement that are defined in Article 9 of the Alabama Uniform Commercial Code have the meanings defined for them therein.

**Accounts** – means any and all rights of Borrower to the payment of money, whether or not evidenced by an instrument or chattel paper (tangible or electronic) or letter of credit and whether or not earned by performance, including a right to payment for goods sold, leased or licensed or for services rendered and a right to any amount payable under a Contract or a monetary obligation and all "accounts" as defined in Article 9 of the UCC.

**Account Debtor** – any Person obligated on an Account.

**Affiliate** – of any specified person means any other person directly or indirectly controlling or controlled by or under direct or indirect common control with such specified person. For purposes of this definition, "control" when used with respect to any specified person means the power to direct the management and policies of such person, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise; and the terms "controlling" and "controlled" have meanings correlative to the foregoing.

**Agreement** – this Loan and Security Agreement.

**Applicable Law** – all laws, rules and regulations applicable to the Person, conduct, transaction, covenant or Loan Document in question, including, but not limited to, all applicable common law and equitable principles; all provisions of all applicable state and federal constitutions, statutes, rules, regulations and order of governmental bodies; and all orders, judgments and decrees of all courts and arbitrators.

**Authorized Representative** – the following, each of whom must be satisfactory to Lender for the specific purposes involved and appropriate to the type of person involved: (1) with respect to a person that is a corporation, the officer or officers of the corporation that are duly authorized to act for the corporation in the specified capacity under Borrower's Governing Documents or Applicable Law; (2) with respect to a person that is a partnership, the general partner or general partners of the partnership that are duly authorized to act for the partnership in the specified capacity under Borrower's Governing Documents or Applicable Law; (3) with respect to a person that is a limited liability company, the member or members of the limited liability company that are duly authorized to act for the limited liability company in the specified

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capacity under Borrower's Governing Documents or Applicable Law; (4) with respect to a person that is a natural person, the natural person if competent and authorized to act for himself or herself in the specified capacity under Applicable Law, or if not, any guardian, custodian, personal representative or other person that is authorized to act for such natural person in the specified capacity under Applicable Law; (5) with respect to a person that is a trust, the trustee or trustees of the trust who are duly authorized to act for the trust in the specified capacity under Borrower's Governing Documents or Applicable Law; and (6) with respect to a person that is another type of organization, the officers, directors, managers, officials or other representatives of the organization that are duly authorized to act for the organization in the specified capacity under Borrower's Governing Documents or Applicable Law.

**Average Monthly Loan Balance** -- the amount obtained by adding the unpaid balance of the Loan owing by Borrower to Lender at the end of each day during the month in question and dividing such sum by the number of days in such month.

**Borrowing Base** -- the sum of the Loan Value of Accounts and the Loan Value of Inventory.

**Borrower** -- the person, firm or entity designated as such in the first paragraph of the Agreement.

**Borrower's Governing Documents** -- all organizational and governing documents applicable to Borrower. The term includes its certificate or articles of incorporation and bylaws, if a corporation, its partnership agreement, if a partnership, its articles of organization and operating agreement, if a limited liability company, its trust agreement, indenture of trust or other document establishing the trust, if a trust, and all applicable resolutions, consents, or other directions of the directors, shareholders, officers, partners, members, settlers, beneficiaries, owners, or other relevant persons comprising, owning, managing or operating the person in question.

**Borrower's Report** -- the Collateral report required to be submitted by Borrower to Lender in accordance with Section 4.15 in the form set forth in **Exhibit F** attached hereto and made a part hereof.

**Business Day** -- any day, excluding Saturday and Sunday, on which Lender's main office in Birmingham, Alabama, is open for carrying on substantially all of its business.

**Chattel Paper, Contracts, Documents, Fixtures, General Intangibles, Goods, Instruments** and other terms not specifically defined herein shall have the same respective meanings as are given to those terms in the Uniform Commercial Code as presently adopted and in effect in the State of Alabama (except to the extent that a broader definition is afforded by laws of another jurisdiction, then, with respect to the Collateral the perfection and the effect of perfection or nonperfection is governed by such other jurisdiction, such capitalized words and phrases shall have the meanings attributed to those terms under such other jurisdiction).

**Collateral** – All of the assets of Borrower of every kind, nature and description, wherever located, whether now owned or hereafter acquired, including all of Borrower's assets which are or may be subject to Article 9 of the Uniform Commercial Code of any one or more of the States of the United States of America or any other jurisdiction where any of the foregoing may now or hereafter be located, together with all replacements therefor, additions and accessions thereto, and proceeds (including, but without limitation, insurance proceeds) and products thereof, including, without limitation, the following:

1. Accounts (including, without limitation, notes, drafts, acceptances, letters of credit, and other rights to payment);
2. Chattel Paper;
3. Contracts;
4. Documents;
5. Equipment;
6. Fixtures;
7. All General Intangibles, including intellectual property, trademarks and trade names, now owned or hereafter acquired or arising, including, without limitation, the following trademarks:  
Trademark "HARRY BARKER" USPTO Serial No. 85308225, Registration No. 4156676;  
Trademark "BELLA ROVER" USPTO Serial No. 77490846;  
Trademark "HOUSE OF BARKER" USPTO Serial No. 77341221, Registration No. 3828743; and  
Trademark "HARRY BARKER" USPTO Serial No. 75791432, Registration No. 2424818.
8. Goodwill;
9. Instruments;
10. Inventory;
11. Investment Property;
12. Tangible Property;
13. Rights as seller of Goods and rights to returned or repossessed Goods;
14. All existing and future leases and use agreements of personal property entered into by Borrower as lessor with other Persons as lessees, including without limitation the right to receive and collect all rentals and other monies, including security deposits, at any time payable under such leases and agreements;

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Exhibit A (Page 3)

**TRADEMARK**  
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15. Any existing and future leases and use agreements of personal property entered into by Borrower as lessee with other Persons as lessors (to the extent the security interest herein does not constitute a default thereunder), including without limitation the leasehold interest of Borrower in such property, and all options to purchase such property or to extend any such lease or agreement;
16. All moneys of Borrower and all Lender accounts, Deposit Accounts, lock boxes and other accounts in which such moneys may at any time be on deposit or held and all investments or securities in which such moneys may at any time be invested and all certificates, instruments and documents from time to time representing or evidencing any of the same;
17. All rights, interest, dividends, proceeds, products, rents, royalties, issues and profits of any of the property described in Paragraphs (1) through (16) above, whether the product of sale, lease, license, exchange, or other disposition of the Collateral paid or accruing before or after the filing of any petition by or against Borrower under the United States Bankruptcy Code and all notes, certificates of deposit, checks and other instruments from time to time delivered to or otherwise possessed by Lender for or on behalf of Borrower in substitution for or in addition to any of said property;
18. All of Borrower's rights as an unpaid vendor or lienor, including stoppage in transit, replevin, detinue and reclamation;
19. All supporting obligations;
20. Any other property of Borrower now or hereafter held by Lender or by others for Lender's Account; and
21. All books, records, documents, files and ledgers (whether on computer or otherwise) conveying or otherwise related to any of the property described in the foregoing granting clauses, pertaining to any of the Collateral.

**Collection Account** – Borrower's demand deposit account at Depository Lender, pledged to and under the dominion and control of Lender.

**Contracts** –all Leases, licenses, requisitions, purchase orders, documents, instruments, letters of credit, and chattel paper (tangible or electronic) of Borrower including any of the same that relate to any Equipment, Fixtures, Inventory, General Intangibles or other Collateral, or secure any Accounts or in connection with which Accounts exist or may be created.

**Default Rate** – a rate of interest equal to Three percent (3.0%) in excess of the Prime-Based Rate calculated daily and computed on the actual days elapsed over a year of 360 days (unless reference to a 365 or a 366-day year is necessary in order not to exceed the highest rate permitted by Applicable Law), said rate to change as and when the Prime-Based Rate changes.

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**TRADEMARK**  
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**Deposit Accounts** – all bank accounts and other deposit accounts and lock boxes of Borrower, including those established for the benefit of Lender, including the Collection Account, the Dominion Account, and all "deposit accounts" as defined in Article 9 of the UCC.

**Depository Lender** – NSBC, or any other bank approved by Lender in writing.

**Dominion Account** – a special account in the name of Lender established by Borrower pursuant to the Agreement at a bank selected by Borrower, but acceptable to Lender in its sole discretion, pledged to and under the dominion and control of Lender, over which Lender shall have sole and exclusive access and control for withdrawal purposes and in which Lender has a first priority perfected security interest.

**Eligible Account** – an Account arising in the ordinary course of Borrower's business from the sale of goods or rendition of services; provided, however, that no Account shall be deemed an Eligible Account if: (i) it arises out of a sale made by Borrower to a Subsidiary or to an Affiliate of Borrower or to a Person controlled by an Affiliate or Subsidiary of Borrower; or (ii) intentionally deleted; or (iii) it is due or unpaid more than ninety (90) days after the original invoice date; or (iv) it arises out of a lease transaction or constitutes a lease receivable in which another party has a security interest or an ownership right; or (v) any covenant, representation or warranty contained in this Agreement with respect to such Account has been breached; or (vi) the Account is not payable in United States Dollars or it arises from a sale to an Account Debtor outside the United States, unless such invoice is covered under either a credit policy covering any such invoice and Lender is named as beneficiary on such credit insurance policy; or the invoice is covered under a transaction covered by a bank letter of credit; or (vii) it arises from a sale to the Account Debtor on a bill-and-hold, guaranteed sale, sale-or-return, sale-on-approval, consignment or any other repurchase or return basis; or (viii) Lender believes, in its sole judgment, that collection of such Account is insecure or that payment is doubtful or will be delayed by reason of the Account Debtor's financial condition; or (ix) the Account Debtor is the United States of America or any department, agency or instrumentality of the United States, unless Borrower assigns its right to payment of such Account to Lender, in form and substance satisfactory to Lender, so as to comply with the Assignment of Claims Act of 1940, as amended; or (x) intentionally deleted; or (xi) the goods giving rise to such Account have not been delivered to and accepted by the Account Debtor or the services giving rise to such Account have not been performed by Borrower and accepted by the Account Debtor or the Account otherwise does not represent a final sale; or (xii) the Account is evidenced by chattel paper, a note, or an instrument of any kind, or has been reduced to judgment; or (xiii) the account is subject to a security interest or ownership right of a third party; or (xiv) the Account is deemed ineligible by Lender in its sole judgment and discretion. In determining the aggregate amount of Eligible Accounts, there shall be excluded in computing the balance of Eligible Accounts any credit balance of an Account Debtor which is more than 90 days old as measured from the date of original posting of said credit balance to Borrower's books and records.

**Eligible Inventory** -- means the Inventory of Borrower which is finished goods (but specifically excluding work-in-process), provided, however, that Lender may consider any of the following classes of Inventory not to be Eligible Inventory:

1. Inventory consisting of "perishable agricultural commodities" within the meaning of the Perishable Agricultural Commodities Act of 1930, as amended, and the regulations thereunder, or on which a Lien has arisen or may arise in favor of agricultural producers under comparable state or local laws;
2. Inventory located on leaseholds as to which the lessor has not entered into a consent and agreement providing Lender with the right to receive notice of default, the right to repossess such Inventory at any time and such other rights as may be acceptable to Lender;
3. Inventory to which the title of Borrower is not absolute, or which is subject to any prior assignment, claim, lien, or security interest;
4. Inventory that is obsolete, unmerchantable, unusable or otherwise unavailable for sale;
5. Inventory consisting of promotional, marketing, packaging or shipping materials and supplies;
6. Inventory that fails to meet all standards imposed by any governmental agency, or department or division thereof, having regulatory authority over such Inventory or its use and sale;
7. Inventory that is subject to any licensing, patent, royalty, trademark, trade name or copyright agreement with any third party from whom Borrower has received notice of a dispute in respect of any such agreement;
8. Inventory located outside the United States (unless Lender shall have received documentation and assurances as may be required by and satisfactory to Lender as to Lender's rights and remedies as a secured creditor with respect to such Inventory); and
9. Inventory that is not in the possession of or under the sole control of Borrower.

Additionally, Lender may exclude from Eligible Inventory all or a proportionate part of any particular portion of Borrower's Inventory which Lender deems ineligible because its market value has declined or because Lender otherwise considers the collateral value thereof to Lender to be impaired or its ability to realize such value to be insecure.

**Environmental Regulations** -- all federal, state and local laws, rules, regulations, ordinances, programs, permits, guidances, orders and consent decrees relating to the environment or to public health, safety and environmental matters, including, but not limited to, the Resource Conservation and Recovery Act, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, the Toxic Substances Control Act, the Clean Water Act, the Clean Air Act, the River and Harbor Act, the Water Pollution Control Act, the Marine Protection Research and Sanctuaries Act, the Deep-Water Port Act, the Safe Drinking Water Act, the Superfund Amendments and Reauthorization Act of 1986, the Federal Insecticide, Fungicide and Rodenticide Act, the Mineral Lands and Leasing Act, the Surface Mining Control and Reclamation Act, the Oil Pollution Act of 1990, state and federal superlien and environmental cleanup programs and laws, U.S. Department Transportation regulations, laws regulating hazardous, radioactive and toxic materials and underground petroleum products storage tanks, and all similar state, federal and local laws and regulations.

**Equipment** -- means all of Borrower's equipment, machinery, furniture, furnishings, vehicles, tools, spare parts, materials, supplies, store fixtures, leasehold improvements, all other goods (including embedded software to the extent provided for in Article 9 of the UCC) of very kind and nature (other than Inventory and Fixtures), and all "equipment" as defined in Article 9 of the UCC.

**Event of Default** -- the occurrence of any one or more of the events described in Section 8.1.

**Fixtures** -- all goods that become so related to a particular real estate that an interest in them arises under real estate law.

**GAAP** -- generally accepted accounting principles in the United States of America in effect from time to time consistently applied.

**General Intangibles** -- means all choses in action, things in action, causes of action and other assignable intangible property of Borrower of every kind and nature (other than Accounts and Contracts), including corporate, partnership, limited liability company and other business records, good will, inventions, designs, patents, patent applications, trademarks, trade names, trade secrets, service marks, logos, copyrights, copyright applications, registrations, software, licenses, payment intangibles (to the extent not included in Accounts), permits, franchises, tax refund claims, insurance policies and rights thereunder (including any refunds and returned premiums) and any collateral, guaranty, letter of credit or other security held by or granted to Borrower to secure payment of Accounts and Contracts, and all "general intangibles" as defined in Article 9 of the UCC.

**Governmental Authority** -- means any national, state, county, municipal or other government, domestic or foreign, and any agency, authority, department, commission, bureau, board, court or other instrumentality thereof.

**Governmental Requirement** -- means all laws, rules, regulations, ordinances, judgments, decrees, codes, orders, injunctions, notices and demand letters of any Governmental Authority.

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**Guarantor(s)** -- Carol Perkins, a resident of the State of South Carolina

**Guaranty Agreements** -- the Continuing Guaranty Agreements, which are to be executed by each Guarantor in favor of Lender whereby such Guarantor unconditionally guarantees the payment and performance of all of the Obligations by Borrower, each in form and substance satisfactory to Lender.

**Hazardous Substances** -- means all pollutants, effluents, contaminants, emissions, toxic or hazardous wastes and other substances, the removal of which is required or the manufacture, use, maintenance, handling, discharge or release of which is regulated, restricted, prohibited or penalized by any Governmental Requirement, or even if not so regulated, restricted, prohibited or penalized, might pose a hazard to the health and safety of the public or the occupants of the property on which it is located or the occupants of the property adjacent thereto, including (1) asbestos or asbestos-containing materials, (2) urea formaldehyde foam insulation, (3) polychlorinated biphenyls (PCBs), (4) flammable explosives, (5) radon gas, (6) laboratory wastes, (7) experimental products, including genetically engineered microbes and other recombinant DNA products, (8) petroleum, crude oil, natural gas, natural gas liquid, liquefied natural gas, other petroleum products and synthetic gas usable as fuel, (9) radioactive material and (10) any substance or mixture listed, defined or otherwise determined by any Governmental Authority to be hazardous, toxic or dangerous, or otherwise regulated, affected, controlled or giving rise to liability under any Governmental Requirement.

**Indebtedness** - means any (a) obligations for borrowed money, (b) obligations, payment for which is being deferred by more than ninety (90) days, representing the deferred purchase price of property other than accounts payable arising in connection with the purchase of inventory customary in the trade and in the ordinary course of Borrower's business, (c) obligations, whether or not assumed, secured by Liens or payable out of the proceeds or production from the Accounts and/or property now or hereafter owned or acquired, and (d) the amount of any other obligation (including obligations under financing leases) which would be shown as a liability on a balance sheet prepared in accordance with GAAP.

**Inventory** -- means all goods, merchandise and other personal property held by Borrower for sale or lease or license or furnished or to be furnished by Borrower under contracts of service or otherwise, raw materials, parts, finished goods, work-in-process, scrap inventory and supplies and materials used or consumed, or to be used or consumed, in Borrower's present or any future business, and all such property returned to or repossessed or stopped in transit by Borrower, whether in transit or in the constructive, actual or exclusive possession of Borrower or of Lender or held by Borrower or any other person for Lender's account and wherever the same may be located, including all such property that may now or hereafter be located on the premises of Borrower or upon any leased location or upon the premises of any carriers, forwarding agents, warehousemen, vendors, selling agents, processors or third parties, and all inventory as defined in Article 9 of the UCC.

**Investment Property** -- all of Borrower's certificated and uncertificated securities, securities accounts, and security entitlements, commodity accounts and commodity contracts, and all "investment property" as defined in Articles 8 and 9 of the Uniform Commercial Code.

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**Itemized Collateral** - collectively: (i) any permit, lease, license, contract or instruments held by Borrower to the extent that any applicable law prohibits the creation of a lien thereon, but only, in each case, to the extent, and for so long as, such prohibition is not terminated or rendered unenforceable or otherwise deemed ineffective by any applicable law; and (ii) any United States intent-to-use trademark applications to the extent that, and solely during the period in which, the grant, attachment or enforcement of a security interest therein would, under applicable federal law, impair the registrability of such applications or the validity or enforceability of registrations issuing from such applications. If and when any of the foregoing property shall cease to be Itemized Collateral, such property shall be deemed at all times from and after the date thereof to constitute Collateral.

**Leases** - means (1) all leases and use agreements of personal property entered into by Borrower as lessor with other persons as lessees, and all rights of Borrower under such leases and agreements, including the right to receive and collect all rents and other moneys (including security deposits) at any time payable under such leases and agreements, whether paid or accruing before or after the filing of any petition by or against Borrower under the federal Bankruptcy Code; and (2) all leases and use agreements of personal property entered into by Borrower as lessee with other persons as lessor, and all rights, titles and interests of Borrower thereunder, including the leasehold interest of Borrower in such property and all options to purchase such property or to extend any such lease or agreement.

**Lien** - any interest in property (real, personal or mixed, and tangible or intangible) securing an obligation owed to, or a claim by, a Person other than the owner of the property, whether such interest is based on the common law, statute or contract, and including, but not limited to, the security interest, security title or Lien arising from a security agreement, mortgage, deed of trust, deed to secure debt, encumbrance, pledge, conditional sale or trust receipt or a lease, consignment or bailment for security purposes.

**Loan or Loans** - the Line of Credit Loan, and any substitutions therefor, extensions, or renewals of the Line of Credit Loan.

**Loan Documents** - this Agreement, the Notes, the Guaranty Agreements, and each and every mortgage, deed of trust, guarantee, note, life insurance assignment, subordination agreement, security agreement, financing statement or other instrument executed and delivered to evidence the Loans or any other Obligation, to constitute collateral for the Loans or any other Obligation, or to evidence security for the Loans or any other Obligation, and any and all other agreements, instruments, and documents heretofore, now or hereafter, executed by Borrower and delivered to Lender in respect to the transactions contemplated by this Agreement.

**Loan Value of Accounts** - at any time, an amount which is not more than the lesser of:

1. \$1,000,000.00 or
2. 85% of the aggregate Eligible Accounts of Borrower.

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**TRADEMARK**  
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**Loan Value of Inventory** – at any time, an amount which is not more than the lesser of:

1. \$250,000.00; or
2. 30% of the aggregate Eligible Raw Materials Inventory of Borrower valued at the lesser of cost (based on the FIFO method of accounting) or fair market value, or
3. the amount outstanding under the accounts receivable advance.

**Margin Stock** – is defined in Regulation U of the Federal Reserve Board, as amended.

**Material Adverse Change** – the occurrence of an event giving rise to a Material Adverse Effect.

**Material Adverse Effect** – a material adverse effect on (a) the business, condition (financial or otherwise), operations, performance or properties of Borrower or any Guarantor, (b) the rights and remedies of Lender under any Loan Document or (c) the ability of Borrower or any Guarantor to perform its Obligations under any Loan Document to which it is or is to be a party.

**Maturity Date** – March \_\_\_, 2016, unless otherwise accelerated by Lender due to an Event of Default or extended as a result of the automatic renewal clause. The Maturity Date shall be extended for additional one year periods unless and until Borrower or Lender delivers in writing, at least 60 days prior to any Maturity Date, a Notice of Intent Not To Renew to the other party.

**Maximum Rate** – the maximum non-usurious rate of interest that now or in the future by Applicable Law may be contracted for, taken, reserved, charged or received on the Indebtedness in question. Notwithstanding any other provision of this Agreement, the Maximum Rate shall be calculated on a daily basis (computed on the actual number of days elapsed over a year of 365 or 366 days, as the case may be).

**Note(s)** – each promissory note executed and delivered by Borrower to Lender evidencing all or part of the Loans.

**OFAC List** - the list of specially designated nationals and blocked persons

subject to financial sanctions that is maintained by the U.S. Treasury Department, Office of Foreign Assets Control and any other similar list maintained by the U.S. Treasury Department, Office of Foreign Assets Control pursuant to any Requirements of Law, including, without limitation, trade embargo, economic sanctions, or other prohibitions imposed by Executive Order of the President of the United States. The OFAC List currently is accessible through the internet website [www.treas.gov/ofac/t111sdn.pdf](http://www.treas.gov/ofac/t111sdn.pdf).

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**Obligations** – (1) the payment of all amounts now or hereafter becoming due and payable under the Loan Documents, including the principal amount of the Loan, all interest (including interest that, but for the filing of a petition in bankruptcy, would accrue on any such principal) and all other fees, charges and costs (including attorneys' fees and disbursements) payable in connection therewith; (2) the observance and performance by Borrower of all of the provisions of the Loan Documents; (3) the payment of all sums advanced or paid by Lender in exercising any of its rights, powers or remedies under the Loan Documents, and all interest (including post-bankruptcy petition interest, as aforesaid) on such sums provided for herein or therein; (4) the payment and performance of all other indebtedness, obligations and liabilities of Borrower to Lender (including obligations of performance) of every kind whatsoever, arising directly between the Borrower and Lender or acquired outright, as a participation or as collateral security from another person by Lender, direct or indirect, absolute or contingent, due or to become due, now existing or hereafter incurred, contracted or arising, joint or several, liquidated or unliquidated, regardless of how they arise or by what agreement or instrument they may be evidenced or whether they are evidenced by agreement or instrument, and whether incurred as maker, endorser, surety, guarantor, general partner, drawer, tort-feasor, account party with respect to a letter of credit, indemnitor or otherwise; and (5) all renewals, extensions, modifications and amendments of any of the foregoing, whether or not any renewal, extension, modification or amendment agreement is executed in connection.

**Permitted Liens** – (i) Liens for Taxes not yet due or which are being contested in good faith by appropriate proceeding and against which reserves deemed adequate by Lender have been set up (excluding any Lien imposed pursuant to any of the provisions of ERISA); (ii) other Liens, charges and encumbrances incidental to the conduct of its business or the ownership of its property and assets and created by operation of law; (iii) purchase money Liens and encumbrances created to secure the indebtedness permitted by Section 5.2; and (iv) liens and security interests listed on **Exhibit B**

**Person** – an individual, partnership, corporation, joint stock company, firm, land trust, business trust, limited liability company, unincorporated organization, or other business entity, or a government or agency or political subdivision.

**Prime-Based Rate** – that rate of interest equal to the Prime Rate plus Two percent (2.0%).

**Prime Rate** – the Prime Rate as reported in the money rates column of the Wall Street Journal, except that if no prime rate is published, the prime rate shall be the highest prime rate or base rate (as determined by Lender) of any bank located in Birmingham, Alabama. The Prime Rate shall at all times be subject to a floor of Four Percent (4.0%).

**Solvent and Solvency** – with respect to any Person on a particular date, that on such date (a) the fair value of the property of such Person is greater than the total amount of liabilities, including, without limitation, contingent liabilities, of such Person, (b) the present fair salable value of the assets of such Person is not less than the amount that will be required to pay the probable liability of such Person on its debts as they become absolute and matured, (c) such Person does not intend to, and does not believe that it will, incur debts or liabilities beyond such Person's ability to pay such debts and liabilities as they mature and (d) such Person is not engaged in business or a transaction, and is not about to engage in business or a transaction, for which such Person's property would constitute an unreasonably small capital. The amount of

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Loan and Security Agreement

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Exhibit A (Page 11)

contingent liabilities at any time shall be computed as the amount that, in the light of all the facts and circumstances existing at such time, represents the amount that can reasonably be expected to become an actual or matured liability.

**Subsidiary** – means (1) any corporation more than 50% of whose shares of stock having general voting power under ordinary circumstances to elect a majority of the board of directors, managers or trustees of such corporation (irrespective of whether or not at the time stock of any other class or classes has or might have voting power by reason of the happening of any contingency), are owned or controlled directly or indirectly by Borrower, or (2) any partnership or limited liability company, 50% or more of the partnership or membership interests in which are owned or controlled, directly or indirectly, by Borrower, and includes entities currently or hereafter falling within the categories described above.

**Tangible Property** – all Equipment, Fixtures, Inventory and other tangible personal property of Borrower.

**Taxes** – any present or future taxes, levies, imposts, duties, fees, deductions, withholdings or other charges of whatever nature, including, without limitation, withholding, social security, income, sales, excise, property, payroll, franchise and license taxes, now or hereafter imposed or levied by the United States or any state or political subdivision of the United States or by any foreign government or other taxing authority, and all interest, penalties, additions to tax and similar liabilities with respect thereto.

**UCC** – the Uniform Commercial Code as in effect in the State of Alabama.

**ACCOUNTING TERMS.** All accounting terms used in this Agreement shall be construed in accordance with GAAP.

**INTERPRETATION.** Whenever the singular or plural number is used, it shall equally include the other. All references to statutes and related regulations shall include any amendments and any successor statutes and regulations. All references to any instruments or agreements, including, without limitation, references to any of the Loan Documents, shall include any and all modifications or amendments and any and all extensions or renewals.

**EXHIBIT B**  
**PERMITTED LIENS**

[NONE.]

EXHIBIT C

(Addresses)

1) Location of any of Borrower's Tangible Personal Property:

909 Commerce Circle, Suite A  
Hanahan SC 29410

EXHIBIT D

- 1) Material Contracts  
*None*
- 2) Borrower's Patents, Patent Applications,  
*None*
- 3) Leases in which Borrower is lessor  
*None*
- 4) Leases in which Borrower is lessee  
*see attached*