Court File No. CV-18-597987-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED

AND IN THE MATTER OF ROCKPORT BLOCKER, LLC, THE ROCKPORT GROUP HOLDINGS, LLC, TRG 1-P HOLDINGS, LLC, TRG INTERMEDIATE HOLDINGS, LLC, TRG CLASS D, LLC, THE ROCKPORT GROUP, LLC, THE ROCKPORT COMPANY, LLC, DRYDOCK FOOTWEAR, LLC, DD MANAGEMENT SERVICES LLC AND ROCKPORT CANADA ULC (THE "DEBTORS")

APPLICATION OF ROCKPORT BLOCKER, LLC, UNDER SECTION 46 OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED

MOTION RECORD
OF ROCKPORT BLOCKER, LLC
(Volume 3 of 3)
(Returnable July 20, 2018)

July 19, 2018

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Index

Court File No. CV-18-597987-00CL

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IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED

AND IN THE MATTER OF ROCKPORT BLOCKER, LLC, THE ROCKPORT GROUP HOLDINGS, LLC, TRG 1-P HOLDINGS, LLC, TRG INTERMEDIATE HOLDINGS, LLC, TRG CLASS D, LLC, THE ROCKPORT GROUP, LLC, THE ROCKPORT COMPANY, LLC, DRYDOCK FOOTWEAR, LLC, DD MANAGEMENT SERVICES LLC AND ROCKPORT CANADA ULC (THE "DEBTORS")

APPLICATION OF ROCKPORT BLOCKER, LLC, UNDER SECTION 46 OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED

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Tab I

THIS IS EXHIBIT "I" TO THE AFFIDAVIT

OF PAUL KOSTUROS SWORN BEFORE ME

ON THIS 19TH DAY OF JULY, 2018

A Notary Public in and for the State of Delaware

LESLEY A. MORRIS
NOTARY PUBLIC
STATE OF DELAWARE
MY COMMISSION EXPIRES JANUARY 5, 2019

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:	Chapter 11
THE ROCKPORT COMPANY, LLC, *et al.*,	Case No. 18-11145 (LSS)
Debtors.[1]	(Jointly Administered)
	Re: Docket Nos. 13, 14, 210, 320 & 384

ORDER APPROVING STIPULATION MODIFYING FINAL CASH MANAGEMENT ORDER TO PERMIT INTERCOMPANY TRANSFERS BETWEEN ROCKPORT CANADA ULC AND THE ROCKPORT COMPANY, LLC

The Court having considered the *Stipulation Modifying Final Cash Management Order to Permit Intercompany Transfers between Rockport Canada ULC and The Rockport Company, LLC* (the "**Stipulation**")[2] attached hereto as **Exhibit 1**, entered into by the Debtors, the Information Officer, and the DIP Note Purchasers; the Court having determined that good and adequate cause exists to approve the Stipulation; and the Court having determined that no further notice of the Stipulation must be given;

[1] The debtors and debtors in possession in these cases and the last four digits of their respective Employer Identification Numbers are: Rockport Blocker, LLC (5097), The Rockport Group Holdings, LLC (3025), TRG 1-P Holdings, LLC (4756), TRG Intermediate Holdings, LLC (8931), TRG Class D, LLC (4757), The Rockport Group, LLC (5559), The Rockport Company, LLC (5456), Drydock Footwear, LLC (7708), DD Management Services LLC (8274), and Rockport Canada ULC (3548). The debtors' mailing address is 1220 Washington Street, West Newton, Massachusetts 02465.

[2] Capitalized terms used but not otherwise defined herein shall have the meaning ascribed to such terms in the Stipulation.

IT IS HEREBY ORDERED that:

1. The Stipulation attached hereto as **Exhibit 1** is approved in its entirety and entered as an order of the Court.

2. The Final Cash Management Order is hereby modified as set forth in the Stipulation.

3. The Court shall retain jurisdiction to hear and determine all matters arising from the implementation of this Order.

Dated: July 18, 2018
Wilmington, Delaware

THE HONORABLE LAURIE SELBER SILVERSTEIN
UNITED STATES BANKRUPTCY JUDGE

EXHIBIT 1

The Stipulation

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:	)	Chapter 11
THE ROCKPORT COMPANY, LLC, *et al.*,	)	Case No. 18-11145 (LSS)
Debtors.[1]	)	(Jointly Administered)

STIPULATION MODIFYING FINAL CASH MANAGEMENT ORDER TO PERMIT INTERCOMPANY TRANSFERS BETWEEN ROCKPORT CANADA ULC AND THE ROCKPORT COMPANY, LLC

The Rockport Company, LLC ("**Rockport**") and certain of its affiliates that are debtors and debtors in possession (collectively, the "**Debtors**") in the above-captioned Chapter 11 cases (the "**Chapter 11 Cases**"), and each of Richter Advisory Group Inc., in its capacity as Canadian Court-appointed information officer (the "**Information Officer**") and the purchasers (the "**DIP Note Purchasers**" and, together with the Debtors and the Information Officer, the "**Parties**") party to that certain Debtor-in-Possession Note Purchase and Security Agreement, by and through their respective undersigned counsel, hereby stipulate and agree (the "**Stipulation**") as follows in:[2]

WHEREAS, on May 14, 2018 (the "**Petition Date**"), the Debtors filed voluntary petitions in this Court commencing the Chapter 11 Cases for relief under the Bankruptcy Code.

[1] The debtors and debtors in possession in these cases and the last four digits of their respective Employer Identification Numbers are: Rockport Blocker, LLC (5097), The Rockport Group Holdings, LLC (3025), TRG 1-P Holdings, LLC (4756), TRG Intermediate Holdings, LLC (8931), TRG Class D, LLC (4757), The Rockport Group, LLC (5559), The Rockport Company, LLC (5456), Drydock Footwear, LLC (7708), DD Management Services LLC (8274), and Rockport Canada ULC (3548). The debtors' mailing address is 1220 Washington Street, West Newton, Massachusetts 02465.

[2] Capitalized terms not otherwise defined herein have the meanings ascribed to them in the *Declaration of Paul Kosturos in Support of Debtors' Chapter 11 Petitions and First Day Motions* [Docket No. 14], the Cash Management Motion (as defined herein), or the DIP Motion (as defined herein), as applicable.

WHEREAS, on the Petition Date, the Debtors filed the (i) *Motion of Debtors for Entry of Interim and Final Orders (I) Authorizing Continued Use of the Debtors' Existing Cash Management System and Bank Accounts; (II) Waiving Certain United States Trustee Requirements; (III) Authorizing Continued Performance of Intercompany Transactions; and (IV) Granting Related Relief* [Docket No. 13] (the "**Cash Management Motion**")[3] and (ii) *Motion of Debtors for Entry of Interim and Final Orders (I) Authorizing the Debtors to (A) Obtain Postpetition Financing on a Super-Priority, Senior Secured Basis and (B) Use Cash Collateral, (II) Granting (A) Liens and Super-Priority Claims and (B) Adequate Protection to Certain Prepetition Lenders, (III) Modifying the Automatic Stay, (IV) Scheduling a Final Hearing, and (V) Granting Related Relief* [Docket No. 15] (the "**DIP Motion**") with the United States Bankruptcy Court for the District of Delaware (the "**Court**").

WHEREAS, on June 12, 2018, the Court entered an order [Docket No. 210] (the "**Final Cash Management Order**") granting the relief requested in the Cash Management Motion on a final basis. Pursuant to the Final Cash Management Order, postpetition Intercompany Transactions as between Rockport and Rockport Canada are limited solely to the Permitted Rockport Canada Intercompany Transactions. Final Cash Mgmt. Order ¶ 7.

WHEREAS, on June 29, 2018, the Court entered an order [Docket No. 320] (the "**Final DIP Order**") granting the relief requested in the DIP Motion on a final basis. Pursuant to the Final DIP Order, a condition precedent to the issuance of any Additional New Money Notes (unless otherwise agreed in writing by the DIP Note Purchasers in their sole discretion) is resolution of the Agreed ABL Liability Allocation in a final order by the Court. Final DIP Order ¶ 39.

[3] Capitalized terms used but not defined herein have the respective meanings ascribed to such terms in the Motion, the *Declaration of Paul Kosturos in Support of Debtors' Chapter 11 Petitions and First Day Motions* [Docket No. 14], or the Stipulation (as defined herein).

WHEREAS, bank accounts operated by Rockport Canada currently hold cash balances of more than $8.2 million (CAD) as of July 13, 2018; however, Rockport Canada is not permitted to transfer such funds to Rockport in accordance with restrictions on Intercompany Transactions set forth in the Final Cash Management Motion.

WHEREAS, as set forth on the record at the hearing held on July 16, 2018 (the "**Hearing**"), (i) as of the Hearing, the Debtors have limited unrestricted cash with which to operate as a going concern and (ii) the Debtors, the DIP Note Purchasers, and the Information Officer have agreed to modify the Final Cash Management Order to permit the Debtors access to certain funds held by Rockport Canada in order to alleviate the Debtors' liquidity constraints, subject to the parties' formal documentation of such agreement.

THEREFORE, in consideration of the foregoing, the Parties stipulate and agree as follows:

1. Rockport Canada shall be entitled and directed to immediately transfer $4.5 million (USD) to Rockport for the purpose of repaying the DIP ABL Obligations (the "**Initial Rockport Canada Intercompany Transfer**").

2. To the extent Rockport Canada holds excess cash following the Initial Rockport Canada Intercompany Transfer, the Parties shall negotiate in good faith as to the amount of such cash that may be transferred from Rockport Canada to repay DIP ABL Obligations, with any dispute being resolved by the Court.

3. The Initial Rockport Canada Intercompany Transfer, and any subsequent transfers agreed to by the Parties in accordance with paragraph 2 above (together with the Initial Rockport Canada Intercompany Transfer, collectively the "**Rockport Canada Intercompany Transfers**"), shall not constitute an Intercompany Transaction prohibited by the Final Cash

Management Order and shall be otherwise permitted. Except as otherwise set forth herein, nothing in this Stipulation shall modify the terms of the Final Cash Management Order.

4. Any Rockport Canada Intercompany Transfer shall be accorded superpriority administrative expense priority (a "**Intercompany Superpriority Claim**") under Section 507(b) of the Bankruptcy Code; provided, however, that such Intercompany Superpriority Claims shall not be satisfied from the Wind-Down Reserve (as defined in the Final DIP Order). For the avoidance of doubt, any such Intercompany Superiority Claim shall be junior to the superpriority claim granted to the DIP Agents pursuant to the Final DIP Order.

5. To the extent Rockport Canada experiences a shortfall in funding required to meet its operational and Chapter 11 expenses as a result of such Rockport Canada Intercompany Transfers, Rockport shall refund such portion of the Rockport Canada Intercompany Transfers as required for Rockport Canada to satisfy its operational and Chapter 11 expenses.

6. Effective upon the Initial Rockport Canada Intercompany Transfer, the DIP Note Purchasers agree to waive the condition precedent, as further described in paragraph 39 of the Final DIP Order, that the Agreed ABL Liability Allocation be determined by a final order of the Court prior to the issuance of any Additional New Money Notes. Notwithstanding anything herein to the contrary, the Parties agree that the reservation of rights language in paragraph 52 of the Final DIP Order, remains in full force and effect.

7. For the avoidance of doubt, the Parties agree that no Rockport Intercompany Transfer shall have any effect on, or in any way prejudice, the final reconciliation based on entry of a final order by the Court or agreement by the Parties with respect to the allocation of debt, sale proceeds, and costs among the Debtors with respect to Rockport Canada.

8. The Parties shall execute, acknowledge, deliver, or cause to be executed, acknowledged, or delivered, all further documents as shall be reasonably necessary or desirable to carry out the provisions of this Stipulation.

9. This Stipulation may only be amended or modified by a writing signed by all Parties. No waiver of any breach of this Stipulation shall be construed as an implied amendment or agreement to amend or modify any provision of this Stipulation. Any notices required or contemplated herein shall also be in writing. The rights and obligations set forth in this Stipulation shall inure to the benefit of the Parties, their heirs, and assigns.

10. The execution of this Stipulation by any Party does not constitute, imply, or evidence the truth of any claim, the admission of any liability, the validity of any defense, or the existence of any circumstances or facts that could constitute a basis for any claim, liability, or defense.

11. Each Party represents and warrants that the signatory to this Stipulation on behalf of such Party has the full power and authority to enter into this Stipulation on behalf of such Party and to bind such Party to the terms of this Stipulation.

12. All representations, warranties, inducements, and/or statements of intention made by the Parties that relate to this Stipulation are embodied in the Stipulation, and none of the Parties have relied upon, shall be bound by, or shall be liable for any alleged representation, warranty, inducement, or statement of intention that is not expressly set forth in this Stipulation.

13. This Stipulation may be signed in multiple counterparts, and when each Party or its authorized representative has signed a counterpart hereof, each such counterpart shall be a binding and enforceable agreement as an original. In addition, this Stipulation may be executed by facsimile or electronic signatures, and such facsimile or electronic signatures will be deemed

to be as valid as an original signature whether or not confirmed by delivering the original signatures in person, by courier or by mail.

14. The Court will retain jurisdiction over any and all matters arising from the interpretation or implementation of this Stipulation.

Date: July 18, 2018
Wilmington, Delaware

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Tab J

THIS IS EXHIBIT "J" TO THE AFFIDAVIT

OF PAUL KOSTUROS SWORN BEFORE ME

ON THIS 19TH DAY OF JULY, 2018

Lesley A Morris

A Notary Public in and for the State of Delaware

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:	Chapter 11
THE ROCKPORT COMPANY, LLC, et al.,	Case No. 18-11145 (LSS)
Debtors.[1]	(Jointly Administered)
	Related Docket Nos. 15, 60 & 76

OBJECTION AND RESERVATION OF RIGHTS OF RICHTER ADVISORY GROUP INC., IN ITS CAPACITY AS INFORMATION OFFICER, TO MOTION OF DEBTORS FOR ENTRY OF INTERIM AND FINAL ORDERS (I) AUTHORIZING THE DEBTORS TO (A) OBTAIN POSTPETITION FINANCING ON A SUPER-PRIORITY, SENIOR SECURED BASES AND (B) USE CASH COLLATERAL, (II) GRANTING (A) LIENS AND SUPER-PRIORITY CLAIMS AND (B) ADEQUATE PROTECTION TO CERTAIN PREPETITION LENDERS, (III) MODIFYING THE AUTOMATIC STAY, (IV) SCHEDULING A FINAL HEARING, AND (V) GRANTING RELATED RELIEF

Richter Advisory Group Inc. ("Richter"), in its capacity as the information officer ("Information Officer") in the foreign proceeding under the Companies' Creditors Arrangement Act, R.S.C. 1985, c. C-36 (as amended, the "CCAA") of Rockport Blocker, LLC, The Rockport Group Holdings, LLC, TRG1-P Holdings, LLC, TRG Intermediate Holdings, LLC, TRG Class D, LLC, The Rockport Group, LLC, The Rockport Company, LLC, Drydock Footwear, LLC, DD Management Services LLC, and Rockport Canada ULC (collectively, the "Debtors"), by and through its undersigned counsel, hereby

[1] The Debtors and debtors in possession in these cases and the last four digits of their Employer Identification Numbers are: Rockport Blocker, LLC (5097), The Rockport Group Holdings, LLC (3025), TRG 1-P Holdings, LLC (4756), TRG Intermediate Holdings, LLC (8931), TRG Class D, LLC (4757), The Rockport Group LLC (5559), The Rockport Company, LLC (5456), Drydock Footwear, LLC (7708), DD Management Services LLC (8274), and Rockport Canada ULC (3548). The debtors' mailing address is 1220 Washington Street, West Newton, Massachusetts 02465.

submits this objection and reservation of rights (the "Objection") to the Motion of Debtors for Entry of Interim and Final Orders (I) Authorizing the Debtors to (A) Obtain Postpetition Financing on a Super-Priority, Senior Secured Basis and (B) Use Cash Collateral, (II) Granting (A) Liens and Super-Priority Claims and (B) Adequate Protection to Certain Prepetition Lenders, (III) Modifying the Automatic Stay, (IV) Scheduling a Final Hearing, and (V) Granting Related Relief (Docket No. 15) (the "DIP Motion").[2] In support of its Objection, Richter respectfully states as follows:

PRELIMINARY STATEMENT

1. The Information Officer supports the Debtors' efforts to obtain financing that allows the businesses to continue through a value-maximizing sale process. Certain aspects of the currently proposed DIP Facilities may unfairly prejudice Canadian Creditors. The Information Officer does not dispute that Rockport Canada (as defined herein) may owe some obligation under the ABL Facility. However, Rockport Canada did not pledge any assets to the holders of the Prepetiton Note Facility or the DIP Note Facility. Nonetheless, the DIP Note Agent and the Prepetition Noteholders through the Proposed ABL Liability Allocation (as defined herein), indirectly seek to encumber previously unencumbered assets of Rockport Canada. In addition, to date, the Information Officer has not received sufficient responses to the requests for information it has sent to the Debtors with respect to certain key provisions of the proposed DIP Facilities. Accordingly, any determination of allocation of debt or proceeds should be considered not in the context of the Final DIP Hearing (as defined herein), but rather after the Debtors have responded fully to all information requests of the Information Officer

[2] Capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the DIP Motion and the Interim DIP Order, defined below.

and at the time when the Courts (as defined herein) determine allocation of the proceeds of any sale of the Debtors' assets. For these reasons, the Information Officer files the Objection.

BACKGROUND

A. The Bankruptcy Cases

2. On May 14, 2018 (the "Petition Date"), each of the Debtors filed a voluntary petition for relief under chapter 11 of title 11 of the United States Code, 11 U.S.C. §§101-1532 (as amended, the "Bankruptcy Code") in the United States Bankruptcy Court for the District of Delaware (the "US Court").

3. The Debtors continue to operate their businesses and manage their property as debtors in possession pursuant to Bankruptcy Code sections 1107(a) and 1108. No trustee or examiner has been appointed in this case.

4. On the Petition Date, the Debtors filed the DIP Motion. Thereafter, on May 15, 2018, the US Court entered an Interim Order (I) Authorizing the Debtors to (A) Obtain Postpetition Financing on a Super-Priority, Senior Secured Basis and (B) Use Cash Collateral, (II) Granting (A) Liens and Super-Priority Claims and (B) Adequate Protection to Certain Prepetition Lenders, (III) Modifying the Automatic Stay, (IV) Scheduling a Final Hearing, and (V) Granting Related Relief (Docket No. 60) (the "Interim DIP Order"). Under the Interim DIP Order, final hearing on the DIP Motion is scheduled for June 13, 2018 (the "Final DIP Hearing").

B. The Canadian Proceeding

5. One of the Debtors, Rockport Canada ULC ("Rockport Canada"), is a British Columbia entity with operations and assets in Canada.

6. Accordingly, on May 16, 2018, Rockport Blocker, LLC ("Blocker"), in its capacity as Foreign Representative (defined below), applied for an order under ancillary proceedings (the "Ancillary Proceedings") pursuant to section 46 of the CCAA with the Ontario Superior Court of Justice (the "Ontario Court" and together with the US Court, the "Courts") seeking entry in the Ontario Court of an initial recognition order (the "Initial Recognition Order"). By the Initial Recognition Order, the Ontario Court approved Blocker as the foreign representative (the "Foreign Representative"), as defined in section 45 of the CCAA, in connection with the Debtors' above-captioned cases (collectively, the "Bankruptcy Cases"). See Initial Recognition Order at ¶ 2, attached hereto as Exhibit A.

7. Also on May 16, 2018, the Ontario Court entered a Supplemental Order (Foreign Main Proceeding) (the "Supplemental Order"), attached hereto as Exhibit B. The Supplemental Order recognized certain orders entered by the US Court granting first day relief, except to the extent of any conflict between such orders and orders entered by the Ontario Court with respect to any property in Canada. See Supplemental Order at ¶ 4.

8. Under the Supplemental Order, Richter was appointed as an officer of the Ontario Court. In such capacity, Richter is required to report to the Ontario Court regarding the Bankruptcy Cases and matters relevant to the Ancillary Proceedings. To date, the Information Officer (as proposed information officer) has filed one such report, a copy of which is attached hereto as Exhibit C.

9. To aid in this endeavor, the Ontario Court ordered that as Information Officer, Richter would have full and complete access to the Debtors'

property, including books, records, data, and other financial documents of the Debtors to perform its duties. Id. at ¶ 12(d). The Debtors and Blocker were also ordered to keep the Information Officer advised of all material steps in these cases, to cooperate fully with the Information Officer, and to provide any assistance necessary to allow the Information Officer to perform its duties. Id. ¶ 13. The Supplemental Order expressly empowered the Information Officer to apply to any court for assistance in carrying out its duties. Id. ¶ 35. Preconditions required by the DIP Note Purchasers relating to potential allocation of value of the Canadian assets, are a material issue that may affect the Canadian estate and will be brought to the attention of the Ontario Court.

10. The Information Officer believes it is compelled to raise these issues through this Objection to inform the US Court of the potential ramifications of the requested relief on the Canadian estate. In considering the relief requested of the US Court, the US Court is encouraged to inform the Ontario Court of facts, issues, and rulings in the Bankruptcy Cases that relate to the Ancillary Proceedings. The Supplemental Order approved Guidelines Applicable to Court-to-Court Communications in Cross-Border Cases, which would permit the US Court and Ontario Court to communicate during the course of the Bankruptcy Proceedings and the Ancillary Proceedings.

C. The Debtors' Prepetition Indebtedness

11. The Debtors had, as of the Petition Date, total outstanding liabilities and other obligations of approximately $287 million as follows:

a. $53.425 million principle debt and $3.55 million reserved for letter of credit purposes for a total of $57 million outstanding under the Prepetition ABL Facility;

b. $188.3 million outstanding under the Prepetition Notes Facility;

c. $11.9 million outstanding under the Prepetition Subordinated Notes (unsecured); and

d. $29.6 million outstanding in trade debt.

First Day Declaration at ¶¶ 18, 21.

12. The only loan under which Rockport Canada is jointly and severally liable with the other Debtors is the ABL Facility. Rockport Canada was a borrower under the initial Prepetition ABL Facility. However, prior to the Petition Date the borrowing availability of Rockport Canada was reduced to zero. Rockport Canada was and remains a guarantor under the ABL Facility

13. Moreover, the Debtors structured their pre-petition borrowing such that Rockport Canada did not directly borrow from the Prepetition ABL Facility. Id. at ¶ 22. Rather, Rockport Canada received inventory purchased The Rockport Company, LLC ("TRC"). Id. The costs of inventory and certain administrative and operational activities were then billed to Rockport Canada and reflected on the books as an unsecured intercompany obligation of Rockport Canada. As such, as of February 2018, the books and records of Rockport Canada reflect a zero obligation to the ABL Lender, as borrower.

14. As of the Petition Date, the Debtors alleged that Rockport Canada owes approximately $28.3 million to TRC and Drydock Footwear, LLC ("Drydock") on account of unsecured intercompany obligations. Id. at n.13. The Information Officer understands that the Drydock component of the intercompany obligations were not related to ordinary course supply of inventory or services. It is unclear whether the costs

attributed to Rockport Canada reflected the reasonable value of goods and services provided.

15. Critically, Rockport Canada is neither a party to nor a guarantor of the Prepetition Notes. The assets of Rockport Canada were not secured in favor of the US Notes nor do the Prepetition Notes seek to secure the Canadian assets directly through the DIP Noteholder Facility.

D. The Proposed DIP Facilities

16. The Debtors propose to enter into DIP Facilities that are comprised of the DIP ABL Facility and the DIP Note Facility.

a) ABL DIP Facility

17. Specifically, a $60 million DIP ABL Facility is to be used to repay the Prepetition ABL Obligations as a creeping roll-up by applying collected receivables and other proceeds of the Revolving Priority Collateral to the Prepetition ABL Facility and free up corresponding borrowing availability under the DIP ABL Facility. Id. at ¶¶ 94-95. Upon entry of the final order approving the DIP Motion, the Debtors propose that the proceeds of the next advance under the DIP ABL Credit Agreement will roll-up any remaining amounts outstanding under the Prepetition ABL Facility to satisfy all Prepetition ABL Obligations in full. Id. at ¶ 95.

18. Rockport Canada is a borrower and guarantor under the ABL DIP Facility and security interests will be granted under the ABL DIP Facility over the Canadian assets. However Rockport Canada will not be entitled to receive any funds from the ABL DIP Facility directly.

b) DIP Note Facility

19. Further, through a new money DIP Note Facility in the amount of twenty million dollars ($20,000,000.00), the DIP Lenders will provide the Debtors ten million dollars ($10,000,000.00) upon entry of the Interim DIP Order and the remaining ten million dollars ($10,000,000.00) upon entry of a final order. Id. at ¶ 96. Finally, and critically, the DIP Note Facility permits the Secured Noteholders to roll up a total of forty million dollars ($40,000,000.00) of Prepetition Notes upon entry of a final order. Id. Rockport Canada is not a borrower or guarantor under the DIP Note Facility and will not be entitled to receive directly any funds from the DIP Note Facilities.

20. The DIP Note Agent, on its behalf and on behalf of the DIP Note Purchasers, is seeking a first priority lien and security interest in all unencumbered assets of the Debtors, other than assets (x) constituting ABL Priority Collateral or Secured Notes Priority Collateral or (y) owned by Rockport Canada, along with certain junior liens and security interests and first priority priming liens on and security interests in certain assets, all of which exclude collateral owned by Rockport Canada. See DIP Motion at p. 24. The Rockport Canada collateral is specifically excluded from any liens and security interests granted to the DIP Note Agent. Moreover, the terms of the order entered by the US Court granting the Debtors authority to continue existing cash management programs (Docket No. 59) (the "Cash Management Order") specifically provides that:

> Except as set forth herein with respect to Intercompany Transactions between Rockport and Rockport Canada, the Debtors are authorized to continue performing Intercompany Transactions arising from or related to the operation of their business in the ordinary course in an aggregate amount not to exceed $1,000,000 pending entry of a final order. With respect

> to Intercompany Transactions as between Rockport and Rockport Canada, the Debtors are authorized to continue the Permitted Rockport Canada Intercompany Transactions

Cash Management Order ¶ 7. The underlying motion (Docket No. 13) (the "Cash Management Motion") further states, "[o]ther than the Permitted Rockport Canada Intercompany Transactions, following the Petition Date, Rockport Canada will not transfer funds to Rockport on account of any prepetition Intercompany Transactions unless otherwise ordered by the Court. Cash Management Motion at ¶ 28.

21. However, as a precondition to the granting of the new money post-petition funds pursuant to the DIP Note Facility, the DIP Note Agent has required an allocation, essentially determining the extent to which the Canadian assets will be used to pay down a portion of the ABL Facility purportedly to apportion the joint and several liability of the Prepetition ABL Obligations among Rockport Canada and the remaining Debtors. The purpose of the allocation precondition appears to be to ensure the ABL Facility is required to look to non-US assets for partial recovery, leaving the US and other newly encumbered assets available to pay down the DIP Note Facility.

22. The nature and extent of the allocation precondition required by the DIP Note Agent evolved in the weeks leading up to the Petition Date, from a requirement that proceeds from all Canadian assets be available and applied to the ABL Facility, to a waiver of marshaling terms, to an attempt to estimate potential charges in the Canadian estate relating to potential Canadian creditor claims, to a timeline to determine an allocation agreement relating to allocation of proceeds, to the current allocation of debt precondition.

23. Immediately prior to the Petition Date, the Debtors, the ABL Lenders, and the Prepetition Noteholders, in consultation with the Information Officer,

agreed to certain language to reflect the Prepetition Notes allocation requirement that allocated proceeds. See Interim DIP Order at ¶ 40.

24. Thus, prior to the Petition Date, the Information Officer understood that (i) allocation of proceeds realized from any sale or liquidation of the collateral of the ABL Lenders and the DIP ABL Lenders would be resolved by the parties before any hearing on any final order approving the DIP Motion Proposed ABL Liability Allocation and such agreement would be placed before the Courts for approval or (ii) all allocation issues, whether of debt or of proceeds, would be addressed by the US Court and the Ontario Court at a later date and after all requested information had been received and considered and the parties were afforded sufficient time to consider such information and brief the issues.

25. However, immediately prior to the Petition Date, upon information and belief, the US Debtors and the US Noteholders determined that an allocation of debt in respect of the Canadian contribution to the ABL Facility only would be included in any order approving the DIP Facility. The US Debtors and US Noteholders suggest that the allocation of debt should be based on the net asset values set forth in the most recent Borrowing Base Certification (as of April 15, 2018) under the Prepetition ABL Facility. First Day Declaration at ¶ 102. Using this calculation, Rockport Canada's proposed allocable share of the Prepetition ABL Obligations would be 18.4% of the outstanding amount (the "Proposed ABL Liability Allocation"). Based on the outstanding ABL obligation of $53.45 million as at the Petition Date, this would amount to $9.84 million to be provided from the Canadian assets to pay down the ABL Facility. See DIP Motion, Ex. D.

26. While the Proposed ABL Liability Allocation addresses an allocation of debt, the Debtors and the DIP Note Agent did not agree to extend such allocation to proceeds that the Debtors, including Rockport Canada, would receive through a sale process. Instead the DIP Note Agent seeks to delay the determination of the allocation of proceeds to another day, without any information or assurance to the Courts about the potential adverse ramifications to the Canadian creditors of such a partial allocation determination.

27. Although the DIP Note Agent has pressed for an allocation of liability determination as soon as the Petition Date, the Information Officer has and continues to advocate for the delay of determining allocation issues until the necessary support, information, and analysis relating to the proposed allocation are available so that parties are making informed and equitable determinations. The Information Officer has not agreed to the proposed allocation methodology, and, indeed, as set forth herein, has expressed concerns about the significant and disparate impact such allocation could have on the Canadian creditors of Rockport Canada and the claims that Rockport Canada has or may have following any sale and payoff of the Prepetition ABL Obligations, including subrogation claims.

E. The Information Requests

28. In order to assess fully the impact that allocation of debt and proceeds may have on Canadian creditors, the Information Officer needs to evaluate the Debtors' analysis of various relevant issues including: (i) potential total proceeds in respect of Canadian assets, (ii) potential recoveries, including inventory to be sold through store closing sales, and (iii) rolled forward valuations of existing inventory, and accounts receivable assets available to the Canadian estate.

29. Accordingly, on May 22, 2018, consistent with the Supplemental Order, and at the invitation of the Debtors, the Information Officer requested information from the Debtors to aid in its assessment of the Proposed ABL Liability Allocation. Specifically, the Information Officer asked various questions to the Debtors with respect to whether such estimates were considered and analysis undertaken by the Debtors prior to agreeing to the Proposed ABL Liability Allocation and requested records and back-up to permit the Information Officer to undertake its own analysis in order to report to the Ontario Court and creditors on the reasonableness of such proposed allocation.

30. The responses provided by the Debtors, to date, have been provided on a without prejudice basis, and are incomplete. While some analysis was undertaken and estimates prepared, the responses thus far suggest that not all calculations that the Information Officer would have undertaken in arriving at the allocation determination were completed. Accordingly, the Information Officer has struggled, and continues to struggle to develop detailed analysis in order to review the Proposed ABL Liability Allocation.

31. The Information Officer also believes that estimating the potential pool of Canadian creditors seeking to share in the recovery of any proceeds from Rockport Canada is an important factor to consider in determining allocation issues. The Information Officer asked various questions to the Debtors with respect to whether such estimates were considered prior to agreeing to the Proposed ABL Liability Allocation and/or to provide necessary information so that the Information Officer could conduct its own estimates. The Debtors' responses suggest that the Debtors did not fully consider

the total estimated claims of Canadian creditors, and, therefore, any impact the Proposed ABL Liability Allocation might have on distributions to Canadian creditors.

32. Notably, the Proposed ABL Liability Allocation does not address the future allocation of proceeds generally, and what amount, if any, remains for the Canadian estate and creditors. Although the Debtors may suggest that a delay in determining the allocation of proceeds issue with full reservation of rights by all parties would not prejudice the parties, the Information Officer disagrees. The Proposed ABL Liability Allocation cannot be determined in a vacuum. The approval of the Proposed ABL Liability Allocation effectively sets a floor for the DIP Note Agent's ability to pre-determine the use of Canadian assets for the ABL Facility. If no other proceeds remain or are allocated to the Canadian estate in future allocation methods (which the DIP Note Agent may seek to have determined in a manner which favors a US based allocation thereby minimizing recovery to the Canadian estate generally) – it is the Canadian creditors who will have borne the entire risk and prejudice of the Proposed ABL Liability Allocation.

33. Further, in reviewing the Proposed ABL Liability Allocation agreement, it is unclear what, if any, resolution has been reached with respect to Rockport Canada's rights of subrogation for any amount of the ABL DIP Facility satisfied through assets of Rockport Canada. These subrogation rights of Rockport Canada may prove critical to creditor recoveries in the Canadian proceedings. The Debtors' incomplete response suggests that the parties either have not considered or have considered and not reached an agreement amongst themselves with respect to subrogation rights. Regardless, the issue remains a live issue for the parties and ultimately the Courts

to determine, on a complete record and legal briefing, in respect of the future subrogation rights of the Canadian estate following the implementation of any allocation agreement approved by the Courts. The Information Officer has filed this Objection, in part, to raise these issues with the Courts and prevent the entry of any final order on the DIP Motion precluding this later allocation determination.

OBJECTION

A. The Proposed ABL Liability Allocation Seeks Encumber Indirectly Unencumbered Assets.

34. The Information Officer objects to any order that has the effect of an encumbrance, direct or indirect, on previously unencumbered assets of Rockport Canada. The formulation of a successful chapter 11 plan requires cooperation and risk-sharing by all parties in interest. However, by seeking approval of the Proposed ABL Liability Allocation at this stage in the Bankruptcy Cases, the Debtors and DIP Note Agent seek indirectly to encumber previously unencumbered assets, and, thereby, shift risk to the Canadian creditors.

35. Specifically, as noted above, the Prepetition Noteholders' liens do not encumber the Debtors' assets in Canada. When negotiating their liens in 2017 and again immediately prior to the Petition Date, the Prepetition Noteholders did not obtain liens on Canadian collateral. The Debtors and DIP Note Agent likely realize that they are unable to directly encumber previously unencumbered Canadian assets because the Ontario Superior Court will almost surely refuse to recognize such an order. See, e.g., In Matter of the Payless Holdings Inc., LLC, 2017 ONSC 2321 (Ontario Superior Court, April 12, 2017) (the Canadian court refused to recognize the a financing order entered in the United States because requires Payless Canada Group Entities to be guarantors and to

employ their assets as collateral for the indebtedness under the DIP ABL Facility, even though the Payless Canada Group Entities are not borrowers under the current credit facility or the DIP ABL Facility, and will not receive any advances under the DIP ABL Facility and the Payless Canada Group assets are currently unencumbered).

36. The Information Officer is concerned that the proposed allocation conditions of the DIP Note Agent permit the DIP Note Lenders to obtain indirectly what they are not entitled to directly, i.e., first claims on the value of the Canadian assets from the hands of Canadian creditors.

37. Indeed, upon information and belief, through the proposed final order on the DIP Motion, the DIP Note Agent seeks to allocate a greater proportion of the obligations for the ABL DIP Facility to Rockport Canada than it otherwise might be entitled to do. The calculations underlying the Proposed ABL Liability Allocation support such a conclusion. For example,:

a. the purported indirect benefits received by Rockport Canada for the ABL Prepetition Facility (and any ABL DIP Facility) is reflected and paid by Rockport Canada as an intercompany obligation. The Proposed ABL Liability Allocation nonetheless seeks to assign a greater share of the "obligation" for the joint and several liability on Rockport Canada, thus double counting the obligations that are reflected both in the ABL Prepetition Facility and any ABL DIP Facility and the intercompany records.

b. The Proposed ABL Liability Allocation of 18.4% is premised on borrowing base calculations. However Rockport Canada had $0 borrowing capability and, at best, received only indirect benefits, the value of which is presently undetermined and that may not equal the amount of "liability" assigned Rockport Canada through the Proposed ABL Liability Allocation.

c. At a minimum, the Debtors appear not to have considered: (i) the actual proceeds estimated to be available with respect to Canadian assets in calculating the Proposed ABL

Liability Allocation; (ii) the roll forward valuation of key assets such as inventory; (iii) accurate monetization values for accounts receivables; and (iv) the extent of competing creditors' claims as against the pool of aggregate recoveries.

d. There are alternative methods that could have been used by the Debtors and DIP Note Agent to frame the initial allocation of debt such as i) allocation based on the actual manner in which financing was provided to the Canadian estate on an unsecured basis and therefore 0% would be allocated; ii) a comparison of the Canadian estate's revenue v. global revenues; iii) estimated liquidation valuations; and (iv) Canadian assets versus global assets all of which result in less of a burden on the Canadian estate and its creditors.

e. Leaving the issue of allocation of proceeds to a future date perpetuates the ability to employ calculations that are disproportionally unfavorable to the Canadian creditors.

f. The method for determining the allocation of costs of administration of the Bankruptcy Cases as against any sales proceeds and recoveries, is unclear and may disproportionately impact the Canadian creditors.

38. While the Information Officer understands that the continued funding is necessary to continue these Bankruptcy Cases under Bankruptcy Code chapter 11, the allocation precondition that requires a premature determination with potentially adverse and disparate impact on Canadian creditors is improper. The proposed allocation is fundamentally inequitable and unfairly prejudices the interests of the Canadian creditors to the benefit of the holders of the Prepetition Notes.

39. The well-established principles of international comity upon which cross-border cases such as these are built, and which the US Court and Ontario Court have great experience, should promote a more balanced approach amongst the estates.

40. Mindful of the Debtors' need for continued financing, the Information Officer has outlined a potential process by which the DIP Note Agent

allocation precondition may be met, while balancing the concerns of the Information Officer and Canadian creditors. Such potential alternative includes the following:

a. For purposes of an overall resolution of the allocation issues, the Proposed ABL Liability Allocation figure of 18.4% of the ABL Debt (totaling $9.838 million) would be recognized as a cap on liability for Rockport Canada;

b. The parties would determine the value of potential proceeds and recoveries from Canadian assets (wholesale and retail inventory, accounts receivables, Canadian IP, Assigned Canadian Contracts, liabilities assumed by the Stalking Horse Bidder, any other assets, and cash on hand) (the "Canadian Recoveries");

c. The Canadian Recoveries (net agreed upon sales and restructuring costs reasonably attributable to the Canadian estate only) would be shared on a percentage basis that must be agreed upon by the parties, to a cap of $9.838 million as outlined above;

d. Continued observation of the restrictions on the use of intercompany transfers as provided in the Cash Management Order; and

e. To avoid double recovery for financing received by the Canadian estate, for every dollar of ABL Facility satisfied from the Canadian estate, the intercompany claim held by the certain of the Debtors would correspondingly be reduced for purposes of future distributions with consideration of the actual economic value of such intercompany claim.

41. An overall allocation arrangement promotes judicial economy because resolution of allocation would also resolve the second allocation of proceeds motion, as well as subrogation claims by the Canadian estate, thereby avoiding any future uncertainty and potential litigation. Moreover the full resolution proposed by the Information Officer would facilitate transferring the Canadian estate (after the sale has closed and store closings are completed) to a Canadian insolvency proceeding for

resolution of Canadian creditor claims through a streamlined Canadian process that will permit an expedited termination of the Canadian estate.

B. The US Court Should Adjourn The Final DIP Hearing.

42. There is no reason that the Proposed ABL Liability Allocation must be determined in connection with the Final DIP Order. The issue of relative contribution of the US and Canadian estates towards the ABL Facility can and should be addressed by the Courts when all information is available. In light of the expedited timeline of these proceedings, with a sale closing date anticipated around July 27, 2018, and the store closing sales to be completed by the end of the same month, the timeline to have further and better information before the Courts is known and restricted.

43. Accordingly, unless and until all of the information requested by the Information Officer is provided and the Information Officer is afforded sufficient time to review such materials, the Final DIP Hearing should be adjourned. Alternatively, the Court should defer consideration of the Proposed ABL Liability Allocation until the issue of allocation of proceeds of the sale is before the Courts.

RESERVATION OF RIGHTS

44. Richter reserves all of Rockport Canada's rights with respect to future allocation of proceeds terms and rights of subrogation. Richter further reserves the right to seek discovery, revise, amend or supplement this Objection at any time, including once Richter receives the proposed Final Order and/or any supplemental information that has already been requested by the Information Officer.

WHEREFORE, Richter respectfully requests that the Court (i) modify any proposed Final or further Interim Order, as necessary to address the concerns and objections of Richter set forth herein; and (ii) grant Richter such further relief as the Court deems just and proper.

Dated: June 8, 2018
Wilmington, Delaware

WOMBLE BOND DICKINSON (US) LLP

/s/ Mark L. Desgrosseilliers

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EXHIBIT A

Court File No CV-18-597987-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

THE HONOURABLE	)	WEDNESDAY, THE 16TH
	)	
MR. JUSTICE MCEWEN	)	DAY OF MAY, 2018

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED

AND IN THE MATTER OF ROCKPORT BLOCKER, LLC, THE ROCKPORT GROUP HOLDINGS, LLC, TRG 1-P HOLDINGS, LLC, TRG INTERMEDIATE HOLDINGS, LLC, TRG CLASS D, LLC, THE ROCKPORT GROUP, LLC, THE ROCKPORT COMPANY, LLC, DRYDOCK FOOTWEAR, LLC, DD MANAGEMENT SERVICES LLC AND ROCKPORT CANADA ULC (THE "DEBTORS")

APPLICATION OF ROCKPORT BLOCKER, LLC, UNDER SECTION 46 OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED

INITIAL RECOGNITION ORDER
(FOREIGN MAIN PROCEEDING)

THIS APPLICATION, made by Rockport Blocker, LLC in its capacity as the foreign representative (the "**Foreign Representative**") of the Debtors, pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**") for an Order substantially in the form enclosed in the Application Record, was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Notice of Application, the affidavit of Paul Kosturos sworn May 15, 2018, the Pre-Filing Report of Richter Advisory Group Inc., in its capacity as proposed information officer (the "**Proposed Information Officer**") dated May 16, 2018, each filed, and upon being provided with copies of the documents required by s.46 of the CCAA,

AND UPON BEING ADVISED by counsel for the Foreign Representative that in addition to this Initial Recognition Order, a Supplemental Order (Foreign Main Proceeding) is being sought,

AND UPON HEARING the submissions of counsel for the Foreign Representative, counsel for the Proposed Information Officer, counsel for Citizens Business Capital, in its capacity as Administrative Agent and Collateral Agent for the lenders under the Senior Secured Super-Priority Debtor-in-Possession Revolving Credit Agreement, counsel for the Senior Secured Noteholders and DIP Note Lenders, counsel for The Cadillac Fairview Corporation Limited, counsel for RioCan REIT and Ivanhoe Cambridge Inc., and upon no one appearing for any other parties although duly served as appears from the Affidavit of Service of Evita Ferreira sworn May 15, 2018:

SERVICE

1. **THIS COURT ORDERS** that the time for service of the Notice of Application and the Application Record is hereby abridged and validated so that this Application is properly returnable today and hereby dispenses with further service thereof.

FOREIGN REPRESENTATIVE

2. **THIS COURT ORDERS AND DECLARES** that the Foreign Representative is the "foreign representative" as defined in section 45 of the CCAA of the Debtors in respect of the jointly administered insolvency proceedings (the "**Foreign Proceeding**") of Rockport Blocker, LLC, The Rockport Group Holdings, LLC, TRG 1-P Holdings, LLC, TRG Intermediate Holdings, LLC, TRG Class D, LLC, The Rockport Group, LLC, The Rockport Company, LLC, Drydock Footwear, LLC, DD Management Services LLC and Rockport Canada ULC in the United States Bankruptcy Court for the District of Delaware (the "**U.S. Court**") under Chapter 11 of Title 11 of the United States Code.

CENTRE OF MAIN INTEREST AND RECOGNITION OF FOREIGN PROCEEDING

3. **THIS COURT DECLARES** that the centre of its main interests for each of the Debtors is the United States of America, and that the Foreign Proceeding is hereby recognized as a "foreign main proceeding" as defined in section 45 of the CCAA.

STAY OF PROCEEDINGS

4. **THIS COURT ORDERS** that until otherwise ordered by this Court:

(a) all proceedings taken or that might be taken against any of the Debtors under the *Bankruptcy and Insolvency Act* or the *Winding-up and Restructuring Act* are stayed;

(b) further proceedings in any action, suit or proceeding in Canada against any of the Debtors are restrained; and

(c) the commencement of any action, suit or proceeding in Canada against any of the Debtors is prohibited.

NO SALE OF PROPERTY

5. **THIS COURT ORDERS** that, except with leave of this Court, each of the Debtors is prohibited from selling or otherwise disposing of:

(a) outside the ordinary course of its business, any of its property in Canada that relates to the business; and

(b) any of its other property in Canada.

GENERAL

6. **THIS COURT ORDERS** that within 7 days from the date of this Order, or as soon as practicable thereafter, the Information Officer shall cause to be published a notice substantially in the form attached to this Order as Schedule "A", once a week for two consecutive weeks, in The Globe and Mail (National Edition).

7. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada, to give effect to this Order and to assist the Debtors and the Foreign Representative and their respective counsel and agents in carrying out the terms of this Order.

8. **THIS COURT ORDERS AND DECLARES** that this Order shall be effective as of 12:01 am on the date of this Order.

9. **THIS COURT ORDERS** that any interested party may apply to this Court to vary or amend this Order or seek other relief on not less than seven (7) days notice to the Debtors and the Foreign Representative and their respective counsel, and to any other party or parties likely to be affected by the order sought, or upon such other notice, if any, as this Court may order.

ENTERED AT / INSCRIT À TORONTO
ON / BOOK NO:
LE / DANS LE REGISTRE NO:

MAY 16 2018

PER / PAR:

Schedule "A"

Form of Newspaper Notice

Court File No.

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED

AND IN THE MATTER OF ROCKPORT BLOCKER, LLC, THE ROCKPORT GROUP HOLDINGS, LLC, TRG 1-P HOLDINGS, LLC, TRG INTERMEDIATE HOLDINGS, LLC, TRG CLASS D, LLC, THE ROCKPORT GROUP, LLC, THE ROCKPORT COMPANY, LLC, DRYDOCK FOOTWEAR, LLC, DD MANAGEMENT SERVICES LLC AND ROCKPORT CANADA ULC (THE "DEBTORS")

APPLICATION OF ROCKPORT BLOCKER, LLC, UNDER SECTION 46 OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED

NOTICE OF INITIAL RECOGNITION ORDER

PLEASE BE ADVISED that this Notice is being published pursuant to an order of the Ontario Superior Court of Justice (Commercial List) (the "**Canadian Court**"), granted on May 16, 2018 (the "**Initial Recognition Order**").

PLEASE TAKE NOTICE that on May 14, 2018, Rockport Blocker, LLC, The Rockport Group Holdings, LLC, TRG 1-P Holdings, LLC, TRG Intermediate Holdings, LLC, TRG Class D, LLC, The Rockport Group, LLC, The Rockport Company, LLC, Drydock Footwear, LLC, DD Management Services LLC, and Rockport Canada ULC (collectively, the "**Chapter 11 Debtors**") each filed voluntary petitions under chapter 11 of title 11 of the United States Code (collectively, the "**Chapter 11 Proceedings**") in United States Bankruptcy Court for the District of Delaware (the "**U.S. Court**"). In connection with the Chapter 11 Proceedings, the U.S. Court has appointed Rockport Blocker, LLC ("**Rockport Blocker**") as the foreign representative of the Chapter 11 Debtors (the "**Foreign Representative**"). The Foreign Representative's address is 1220 Washington Street, West Newton, Massachusetts 02465. The Debtors carry on business in Canada through Rockport Canada ULC.

PLEASE TAKE FURTHER NOTICE that the Initial Recognition Order and a Supplemental Order (together, the "**Recognition Orders**") have been issued by the Canadian Court under Part IV of the *Companies' Creditors Arrangement Act,* R.S.C. 1985, c. C-36 (the "**CCAA Recognition Proceedings**"), and, among other things: (i) recognize the Chapter 11 Proceedings as a foreign main proceeding; (ii) recognize Rockport Blocker as the Foreign Representative of the Chapter 11 Debtors; (iii) recognize certain orders granted by the U.S. Court in the Chapter 11 Proceedings including the granting of an interim DIP financing order; (iv) stay claims against the Chapter 11 Debtors, their property and their directors and officers in Canada; (v) prohibit the

commencement of any such proceedings in Canada absent further order of the Canadian Court; and (vi) appoint Richter Advisory Group Inc. as the Information Officer with respect to the CCAA Recognition Proceedings.

PLEASE TAKE FURTHER NOTICE that counsel for the Foreign Representative is:
Borden Ladner Gervais LLP
Bay Adelaide Centre, East Tower
22 Adelaide St W, Toronto, ON
Canada M5H 4E3
Attention: Roger Jaipargas
Phone: 416-367-6266
Fax: 416-367-6749
Email: RJaipargas@blg.com

PLEASE TAKE FURTHER NOTICE that persons who wish to receive a copy of the Recognition Orders or obtain any further information in respect thereof or in respect of the matters set forth in this Notice, should contact the Information Officer at the address below:

Richter Advisory Group Inc. (solely in its capacity as Information Officer)
Bay Wellington Tower
181 Bay Street, Suite 3320, Toronto, ON
Canada M5J 2T3
Attention: Adam Sherman
Phone: 416-642-4836
Fax: 514-934-8603
Email: asherman@richter.ca

PLEASE TAKE FURTHER NOTICE that the motions, orders and notices filed with the U.S. Court in the Chapter 11 Proceedings are available at https://cases.primeclerk.com/rockport

Prime Clerk LLC
830 Third Avenue, 9th Floor
New York, New York 10022
Attention: Benjamin J. Steele
Phone: 212-257-5490
Email: bsteele@primeclerk.com

PLEASE FINALLY NOTE that the Recognition Orders, and any other orders that may be granted by the Canadian Court, can be viewed at http://www.richter.ca/en/folder/insolvency-cases/r/rockport-canada

DATED AT TORONTO, ONTARIO this ____ day of May, 2018.

Richter Advisory Group Inc.
(solely in its capacity as Information Officer of the Chapter 11 Debtors and not in its personal or corporate capacity)

CV-18-597987-00CL

Court File No.:

)MPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED

ROCKPORT BLOCKER, LLC, THE ROCKPORT GROUP HOLDINGS, LLC, TRG 1-P HOLDINGS, LLC, TRG S, LLC, TRG CLASS D, LLC, THE ROCKPORT GROUP, LLC, THE ROCKPORT COMPANY, LLC, DRYDOCK AGEMENT SERVICES LLC AND ROCKPORT CANADA ULC (THE "DEBTORS")

RT BLOCKER, LLC, UNDER SECTION 46 OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985,

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ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

PROCEEDINGS COMMENCED AT TORONTO

INITIAL RECOGNITION ORDER
(Foreign Main Proceeding – May 16, 2018)

BORDEN LADNER GERVAIS LLP
Bay Adelaide Centre, East Tower
22 Adelaide Street West
Toronto ON M5H 4E3
Tel: 416-367-6000
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Roger Jaipargas – LSO No. 43275C
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Alex MacFarlane – LSO No. 28133Q
Tel: 416-367-6305
amacfarlane@blg.com

Lawyers for Rockport Blocker, LLC, The Rockport Group Holdings, LLC, TRG 1-P Holdings, LLC, TRG Intermediate Holdings, LLC, TRG Class D, LLC, The Rockport Group, LLC, The Rockport Company, LLC, Drydock Footwear, LLC, DD Management Services LLC and Rockport Canada ULC

EXHIBIT B

CV-18-597987-00CL
Court File No.

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

THE HONOURABLE	)	WEDNESDAY, THE 16TH
	)	
MR. JUSTICE MCEWEN	)	DAY OF MAY, 2018

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED

AND IN THE MATTER OF ROCKPORT BLOCKER, LLC, THE ROCKPORT GROUP HOLDINGS, LLC, TRG 1-P HOLDINGS, LLC, TRG INTERMEDIATE HOLDINGS, LLC, TRG CLASS D, LLC, THE ROCKPORT GROUP, LLC, THE ROCKPORT COMPANY, LLC, DRYDOCK FOOTWEAR, LLC, DD MANAGEMENT SERVICES LLC AND ROCKPORT CANADA ULC (THE "DEBTORS")

APPLICATION OF ROCKPORT BLOCKER, LLC, UNDER SECTION 46 OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED

SUPPLEMENTAL ORDER
(FOREIGN MAIN PROCEEDING)

THIS APPLICATION, made by Rockport Blocker, LLC in its capacity as the foreign representative (the "**Foreign Representative**") of the Debtors, pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**") for an Order substantially in the form enclosed in the Application Record, was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Notice of Application, the affidavit of Paul Kosturos sworn May 15, 2018 (the "**Kosturos Affidavit**"), the Pre-Filing Report of Richter Advisory Group Inc., in its capacity as proposed information officer (the "**Proposed Information Officer**") dated May 16, 2018, and on being advised that the secured creditors who are likely to be affected by the charges created herein were given notice, and on hearing the submissions of counsel for the Foreign Representative, counsel for the Proposed Information Officer, counsel for Citizens Business

Capital, in its capacity as Administrative Agent and Collateral Agent (the "**DIP ABL Agent**") for the lenders (together with the DIP ABL Agent, the "**DIP ABL Lenders**") under the Senior Secured Super-Priority Debtor-in-Possession Revolving Credit Agreement (the "**DIP ABL Credit Agreement**"), counsel for the Senior Secured Noteholders and DIP Note Lenders, counsel for The Cadillac Fairview Corporation Limited, counsel for RioCan REIT and Ivanhoe Cambridge Inc., and upon no one appearing for any other parties although duly served as appears from the Affidavit of Service of Evita Ferreira sworn May 15, 2018, and on reading the consent of Richter Advisory Group Inc. to act as the information officer:

SERVICE

1. **THIS COURT ORDERS** that the time for service of the Notice of Application and the Application Record is hereby abridged and validated so that this Application is properly returnable today and hereby dispenses with further service thereof.

INITIAL RECOGNITION ORDER

2. **THIS COURT ORDERS** that any capitalized terms not otherwise defined herein shall have the meanings given to such terms in the Initial Recognition Order (Foreign Main Proceeding) dated May 16, 2018 (the "**Recognition Order**") or in the Kosturos Affidavit.

3. **THIS COURT ORDERS** that the provisions of this Supplemental Order shall be interpreted in a manner complementary and supplementary to the provisions of the Recognition Order, provided that in the event of a conflict between the provisions of this Supplemental Order and the provisions of the Recognition Order, the provisions of the Recognition Order shall govern.

RECOGNITION OF FOREIGN ORDERS

4. **THIS COURT ORDERS** that the following orders (collectively, the "**Foreign Orders**") of the United States Bankruptcy Court for the District of Delaware made in the Foreign Proceeding are hereby recognized and given full force and effect in all provinces and territories of Canada pursuant to Section 49 of the CCAA:

(a) an order authorizing Rockport Blocker to act as the foreign representative of the Debtors (the "**Foreign Representative Order**");

(b) an order directing the joint administration of the Chapter 11 cases of the Debtors in the Foreign Proceeding (the "**Joint Administration Order**");

(c) an order authorizing the retention of Prime Clerk LLC as claims and noticing agent (the "**Claims Agent Order**");

(d) an order enforcing and restating the automatic stay protections and *ipso facto* prohibitions of the United States Bankruptcy Code (the "**Automatic Stay Order**");

(e) an interim order authorizing the Debtors to pay all or a portion of the shipping and warehousing claims and certain import charges (the "**Shippers and Warehouse Order**");

(f) an interim order authorizing, but not directing, the Debtors to pay prepetition obligations of certain critical vendors (the "**Critical Foreign Vendors Order**");

(g) an interim order authorizing, but not directing, the payment of certain taxes and fees (the "**Taxes Order**");

(h) an interim order authorizing the Debtors to continue to renew their insurance programs including premium financing and surety bond programs (the "**Insurance Order**");

(i) an interim order authorizing the Debtors to pay certain employee compensation and benefits and prepetition claims of independent contractors and temporary workers (the "**Wages Order**");

(j) an interim order authorizing, but not directing, the Debtors to maintain certain customer programs and to honour or pay certain prepetition obligations related to the customer programs during the pendency of the Foreign Proceeding (the "**Customer Program Order**");

(k) an interim order (i) prohibiting the Debtors utility service providers from altering or discontinuing service; (ii) approving an adequate assurance deposit as adequate assurance of postpetition payment to the utilities; and (iii) establishing procedures for resolving any subsequent request by utilities for additional adequate assurance of payment (the "**Utilities Order**");

(l) an interim order authorizing the Debtors to, *inter alia*, continue to use their cash management system and bank accounts (the "**Cash Management Order**"); and

(m) an interim order, *inter alia*, (i) approving postpetition financing; and (ii) granting liens and super-priority administrative expense claim status to the DIP ABL Agent on its behalf and on behalf of the DIP ABL Lenders (the "**Interim DIP Financing Order**");

provided, however, that in the event of any conflict between the terms of the Foreign Orders and the Orders of this Court made in the within proceedings, the Orders of this Court shall govern with respect to Property (as defined below) in Canada. Copies of the Foreign Orders are attached as Exhibits "C" to "O" to the Kosturos Affidavit.

APPOINTMENT OF INFORMATION OFFICER

5. **THIS COURT ORDERS** that Richter Advisory Group Inc. (the "**Information Officer**") is hereby appointed as an officer of this Court, with the powers and duties set out herein.

NO PROCEEDINGS AGAINST THE DEBTORS OR THE PROPERTY

6. **THIS COURT ORDERS** that, subject to paragraph 22, until such date as this Court may order (the "**Stay Period**") no proceeding or enforcement process in any court or tribunal in Canada (each, a "**Proceeding**") shall be commenced or continued against or in respect of the Debtors or affecting their business (the "**Business**") or their current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof (the "**Property**"), except with leave of this Court, and any and all

Proceedings currently under way against or in respect of any of the Debtors or affecting the Business or the Property are hereby stayed and suspended pending further Order of this Court.

NO EXERCISE OF RIGHTS OR REMEDIES

7. **THIS COURT ORDERS** that, subject to paragraph 22, during the Stay Period, all rights and remedies of any individual, firm, corporation, governmental body or agency, or any other entities (all of the foregoing, collectively being "**Persons**" and each being a "**Person**") against or in respect of the Debtors, or affecting the Business or the Property, are hereby stayed and suspended except with leave of this Court, provided that nothing in this Order shall (i) prevent the assertion of or the exercise of rights and remedies outside of Canada, (ii) empower any of the Debtors to carry on any business in Canada which that Debtor is not lawfully entitled to carry on, (iii) affect such investigations or Proceedings by a regulatory body as are permitted by section 11.1 of the CCAA, (iv) prevent the filing of any registration to preserve or perfect a security interest, or (v) prevent the registration of a claim for lien.

NO INTERFERENCE WITH RIGHTS

8. **THIS COURT ORDERS** that, subject to paragraph 22, during the Stay Period, no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by any of the Debtors and affecting the Business in Canada, except with leave of this Court.

ADDITIONAL PROTECTIONS

9. **THIS COURT ORDERS** that during the Stay Period, all Persons having oral or written agreements with the Debtors or statutory or regulatory mandates for the supply of goods and/or services in Canada, including without limitation all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation services, utility or other services provided in respect of the Property or Business of the Debtors, are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Debtors, and that the Debtors shall be entitled to the continued use in Canada of their current premises, telephone numbers, facsimile numbers, internet addresses and domain names.

10. **THIS COURT ORDERS** that during the Stay Period, and except as permitted by subsection 11.03(2) of the CCAA, no Proceeding may be commenced or continued against any of the former, current or future directors or officers of the Debtors with respect to any claim against the directors or officers that arose before the date hereof and that relates to any obligations of the Debtors whereby the directors or officers are alleged under any law to be liable in their capacity as directors or officers for the payment or performance of such obligations.

11. **THIS COURT ORDERS** that no Proceeding shall be commenced or continued against or in respect of the Information Officer, except with leave of this Court. In addition to the rights and protections afforded the Information Officer herein, or as an officer of this Court, the Information Officer shall have the benefit of all of the rights and protections afforded to a Monitor under the CCAA, and shall incur no liability or obligation as a result of its appointment or the carrying out of the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part.

OTHER PROVISIONS RELATING TO INFORMATION OFFICER

12. **THIS COURT ORDERS** that the Information Officer:

(a) is hereby authorized to provide such assistance to the Foreign Representative in the performance of its duties as the Foreign Representative may reasonably request;

(b) shall report to this Court at least once every three months with respect to the status of these proceedings and the status of the Foreign Proceeding, which reports may include information relating to the Property, the Business, or such other matters as may be relevant to the proceedings herein;

(c) in addition to the periodic reports referred to in paragraph 12(b) above, the Information Officer may report to this Court at such other times and intervals as the Information Officer may deem appropriate with respect to any of the matters referred to in paragraph 12(b) above;

(d) shall have full and complete access to the Property, including the premises, books, records, data, including data in electronic form, and other financial documents of the Debtors, to the extent that is necessary to perform its duties arising under this Order; and

(e) shall be at liberty to engage independent legal counsel or such other persons as the Information Officer deems necessary or advisable respecting the exercise of its powers and performance of its obligations under this Order.

13. **THIS COURT ORDERS** that the Debtors and the Foreign Representative shall (i) advise the Information Officer of all material steps taken by the Debtors or the Foreign Representative in these proceedings or in the Foreign Proceeding, (ii) co-operate fully with the Information Officer in the exercise of its powers and discharge of its obligations, and (iii) provide the Information Officer with the assistance that is necessary to enable the Information Officer to adequately carry out its functions.

14. **THIS COURT ORDERS** that the Information Officer shall not take possession of the Property and shall take no part whatsoever in the management or supervision of the management of the Business and shall not, by fulfilling its obligations hereunder, be deemed to have taken or maintained possession or control of the Business or Property, or any part thereof.

15. **THIS COURT ORDERS** that the Information Officer (i) shall post on its website all Orders of this Court made in these proceedings, all reports of the Information Officer filed herein, and such other materials as this Court may order from time to time, and (ii) may post on its website any other materials that the Information Officer deems appropriate.

16. **THIS COURT ORDERS** that the Information Officer may provide any creditor of a Debtor with information provided by the Debtors in response to reasonable requests for information made in writing by such creditor addressed to the Information Officer. The Information Officer shall not have any responsibility or liability with respect to the information disseminated by it pursuant to this paragraph. In the case of information that the Information Officer has been advised by the Debtors is privileged or confidential, the Information Officer shall not provide such information to creditors unless otherwise directed by this Court or on

such terms as the Information Officer, the Foreign Representative and the relevant Debtors may agree.

17. **THIS COURT ORDERS** that the Information Officer and counsel to the Information Officer shall be paid by the Debtors their reasonable fees and disbursements incurred in respect of these proceedings, both before and after the making of this Order, in each case at their standard rates and charges unless otherwise ordered by the Court on the passing of accounts. The Debtors are hereby authorized and directed to pay the accounts of the Information Officer and counsel for the Information Officer and, in addition, the Debtors are hereby authorized to pay to the Information Officer and counsel to the Information Officer, retainers in the amounts of $50,000, respectively, to be held by them as security for payment of their respective fees and disbursements outstanding from time to time.

18. **THIS COURT ORDERS** that the Information Officer and its legal counsel shall pass their accounts from time to time, and for this purpose the accounts of the Information Officer and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice, and the accounts of the Information Officer and its counsel shall not be subject to approval in the Foreign Proceeding.

19. **THIS COURT ORDERS** that the Information Officer and counsel to the Information Officer, if any, shall be entitled to the benefit of and are hereby granted a charge (the "**Administration Charge**") on the Property in Canada, which charge shall not exceed an aggregate amount of $300,000, as security for their professional fees and disbursements incurred in respect of these proceedings, both before and after the making of this Order. The Administration Charge shall have the priority set out in paragraphs 21 and 23 hereof.

INTERIM FINANCING

20. **THIS COURT ORDERS** that the DIP ABL Lenders shall be entitled to the benefit of and are hereby granted a hypothec and charge (the "**DIP Lenders' Charge**") on the Property in Canada, which DIP Lenders' Charge shall be consistent with the liens and charges created by the DIP ABL Credit Agreement and the Interim DIP Financing Order, provided however that the DIP Lenders' Charge, with respect to the Property in Canada, shall have the priority set out in

paragraphs 21 and 23 hereof, and further provided that the DIP Lenders' Charge shall not be enforced unless the DIP ABL Agent delivers a Default Notice (as such term is defined in the Interim DIP Financing Order) and otherwise complies with the procedure set out in paragraph 27 of the Interim DIP Financing Order.

VALIDITY AND PRIORITY OF CHARGES CREATED BY THIS ORDER

21. **THIS COURT ORDERS** that the priorities of the Administration Charge and the DIP Lenders' Charge, as among them, shall be as follows:

First – Administration Charge to the maximum amount of $300,000; and

Second – DIP Lenders' Charge to the maximum amount of US$60,000,000.

22. **THIS COURT ORDERS** that notwithstanding any other provision of this Order or the Recognition Order:

(a) the DIP ABL Lenders may, but are not required to, take such steps from time to time as it may deem necessary or appropriate to file, register, or record the DIP Lenders' Charge or any of the related documents;

(b) the DIP ABL Lenders may administer the DIP ABL Facility in accordance with the terms of the DIP ABL Credit Agreement and the Interim DIP Financing Order;

(c) upon the occurrence of an Event of Default (as defined in the DIP ABL Credit Agreement), provided the DIP ABL Lenders are authorized to do so pursuant to the Interim DIP Financing Order, and subject to any notice requirements in the Interim DIP Financing Order, the DIP ABL Lenders may exercise their rights and remedies under the DIP ABL Credit Agreement and the Interim DIP Financing Order, subject to and in accordance with the terms and conditions thereof in respect of the Property of the Debtors located in Canada without further application to this Court; and

(d) the foregoing rights and remedies of the DIP ABL Lenders shall be enforceable against any trustee in bankruptcy, interim receiver, receiver or receiver and manager of any of the Debtors or the Property.

23. **THIS COURT ORDERS** that the filing, registration or perfection of the Administration Charge or the DIP Lenders' Charge (collectively, the "**Charges**") shall not be required, and that the Charges shall be valid and enforceable for all purposes, including as against any right, title or interest filed, registered, recorded or perfected subsequent to the Charges coming into existence, notwithstanding any such failure to file, register, record or perfect the Charges.

24. **THIS COURT ORDERS** that each of the Charges (all as constituted and defined herein) shall constitute a charge on the Property in Canada and such Charges shall rank in priority to all other security interests, hypothecs, trusts, liens, charges and encumbrances, claims of secured creditors, statutory or otherwise (collectively, "**Encumbrances**") in favour of any Person.

25. **THIS COURT ORDERS** that except as otherwise expressly provided for herein, or as may be approved by this Court, the Debtors shall not grant any Encumbrances over any Property in Canada that rank in priority to, or *pari passu* with, the Charges, unless the Debtors also obtain the prior written consent of the Information Officer and the DIP ABL Lenders.

26. **THIS COURT ORDERS** that the Charges shall not be rendered invalid or unenforceable and the rights and remedies of the chargees entitled to the benefit of the Charges (collectively, the "**Chargees**") shall not otherwise be limited or impaired in any way by (i) the pendency of these proceedings and the declarations of insolvency made herein; (ii) any application(s) for bankruptcy order(s) issued pursuant to the *Bankruptcy and Insolvency Act (Canada)*, R.S.C. 1985, c. B-3, as amended (the "**BIA**"), or any bankruptcy order made pursuant to such applications; (iii) the filing of any assignments for the general benefit of creditors made pursuant to the BIA; (iv) the provisions of any federal or provincial statutes; or (v) any negative covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the creation of Encumbrances, contained in any existing loan documents, lease, sublease, offer to lease or other agreement (collectively, an "**Agreement**") which binds any Debtor, and notwithstanding any provision to the contrary in any Agreement:

(a) the creation of the Charges shall not create or be deemed to constitute a breach by a Debtor of any Agreement to which it is a party;

(b) none of the Chargees shall have any liability to any Person whatsoever as a result of any breach of any Agreement caused by or resulting from the creation of the Charges; and

(c) the payments made by the Debtors to the Chargees pursuant to this Order and the Interim DIP Financing Order, and the granting of the Charges, do not and will not constitute preferences, fraudulent conveyances, transfers at undervalue, oppressive conduct, or other challengeable or voidable transactions under any applicable law.

27. **THIS COURT ORDERS** that any Charges created by this Order over leases of real property in Canada shall only be a charge in the applicable Debtor's interest in such real property leases.

28. **THIS COURT ORDERS** that the Debtors are authorized and empowered to execute and deliver such deeds of hypothec, Canadian security agreements, and other definitive documents as are contemplated by the DIP ABL Credit Agreement or as may be reasonably required by the DIP ABL Lenders pursuant to the terms of the DIP ABL Credit Agreement.

SERVICE AND NOTICE

29. **THIS COURT ORDERS** that the Debtors, the Foreign Representative, the Information Officer and their counsel are at liberty to serve or distribute this Order, any other materials and orders as may be reasonably required in these proceedings, including any notices, or other correspondence, by forwarding true copies thereof by electronic message to the Debtors' creditors or other interested parties and their advisors. For greater certainty, any such distribution or service shall be deemed to be in satisfaction of a legal or juridical obligation, and notice requirements within the meaning of clause 3(c) of the Electronic Commerce Protection Regulations, Reg. 81000-2-175 (SOR/DORS).

30. **THIS COURT ORDERS** that the E-Service Protocol of the Commercial List (the "**Protocol**") is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Protocol (which can be found on the Commercial List website at http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/e-service-protocol/) shall be valid and effective service. Subject to Rule 17.05 this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules of Civil Procedure. Subject to Rule 3.01(d) of the Rules of Civil Procedure and paragraph 21 of the Protocol, service of documents in accordance with the Protocol will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the Protocol with the following URL '<http://www.richter.ca/Folder/Insolvency-Cases/R/Rockport-Canada>'.

31. **THIS COURT ORDERS** that if the service or distribution of documents in accordance with the Protocol is not practicable, the Debtors, the Foreign Representative and the Information Officer are at liberty to serve or distribute this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or facsimile transmission to the Debtors' creditors or other interested parties at their respective addresses as last shown on the records of the applicable Debtor and that any such service or distribution by courier, personal delivery or facsimile transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

GENERAL

32. **THIS COURT ORDERS** that the Information Officer may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.

33. **THIS COURT ORDERS** that nothing in this Order shall prevent the Information Officer from acting as an interim receiver, a receiver, a receiver and manager, a monitor, a proposal trustee, or a trustee in bankruptcy of any Debtor, the Business or the Property.

34. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States of America, to give effect to this Order and to assist the Debtors, the Foreign Representative, the

Information Officer, and their respective agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Debtors, the Foreign Representative, and the Information Officer, the latter as an officer of this Court, as may be necessary or desirable to give effect to this Order, or to assist the Debtors, the Foreign Representative, and the Information Officer and their respective agents in carrying out the terms of this Order.

35. **THIS COURT ORDERS** that each of the Debtors, the Foreign Representative and the Information Officer be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order.

36. **THIS COURT ORDERS** that the Guidelines for Court-to-Court Communications in Cross-Border Cases developed by the American Law Institute and attached as Schedule "A" hereto is adopted by this Court for the purposes of these recognition proceedings.

37. **THIS COURT ORDERS** that any interested party may apply to this Court to vary or amend this Order or seek other relief on not less than seven (7) days notice to the Debtors, the Foreign Representative, the Information Officer, the DIP ABL Agent and the Senior Secured Noteholders and their respective counsel, and to any other party or parties likely to be affected by the order sought, or upon such other notice, if any, as this Court may order.

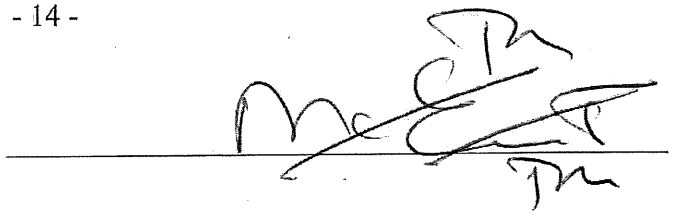
38. **THIS COURT ORDERS** that, notwithstanding paragraph 36, no Order shall be made varying, rescinding or otherwise affecting the provisions of this Order with respect to the DIP ABL Credit Agreement and the DIP Lenders' Charge unless notice of a motion for such Order is served in accordance with paragraph 36 above and is returnable no later than the date of the hearing for the Final Order (as defined in the Interim DIP Financing Order), or the Debtors, the Foreign Representative and the DIP ABL Lenders consent to such Order.

39. **THIS COURT ORDERS** that this Order shall be effective as of 12:01 am on the date of this Order.

ENTERED AT / INSCRIT À TORONTO
ON / BOOK NO:
LE / DANS LE REGISTRE NO:

MAY 16 2018

PER / PAR:



Schedule "A"

Guidelines for Court-to-Court Communications in Cross-Border Cases developed by the American Law Institute

THE AMERICAN LAW INSTITUTE

TRANSNATIONAL INSOLVENCY:
COOPERATION AMONG
THE NAFTA COUNTRIES

PRINCIPLES OF COOPERATION AMONG THE NAFTA COUNTRIES

Guidelines Applicable to Court-to-Court Communications in Cross-Border Cases

As Adopted and Promulgated
BY
THE AMERICAN LAW INSTITUTE
AT WASHINGTON, D.C.

May 16, 2000

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Guidelines
Applicable to Court-to-Court Communications
in Cross-Border Cases

Introduction:

One of the most essential elements of cooperation in cross-border cases is communication among the administrating authorities of the countries involved. Because of the importance of the courts in insolvency and reorganization proceedings, it is even more essential that the supervising courts be able to coordinate their activities to assure the maximum available benefit for the stakeholders of financially troubled enterprises.

These Guidelines are intended to enhance coordination and harmonization of insolvency proceedings that involve more than one country through communications among the jurisdictions involved. Communications by judges directly with judges or administrators in a foreign country, however, raise issues of credibility and proper procedures. The context alone is likely to create concern in litigants unless the process is transparent and clearly fair. Thus, communication among courts in cross-border cases is both more important and more sensitive than in domestic cases. These Guidelines encourage such communications while channeling them through transparent procedures. The Guidelines are meant to permit rapid cooperation in a developing insolvency case while ensuring due process to all concerned.

The Guidelines at this time contemplate application only between Canada and the United States because of the very different rules governing communications with and among courts in Mexico. Nonetheless, a Mexican Court might choose to adopt some or all of these Guidelines for communications by a sindico with foreign administrators or courts.

A Court intending to employ the Guidelines — in whole or part, with or without modifications — should adopt them formally before applying them. A Court may wish to make its adoption of the Guidelines contingent upon, or temporary until, their adoption by other courts concerned in the matter. The adopting Court may want to make adoption or continuance conditional upon adoption of the Guidelines by the other Court in a substantially similar form, to ensure that judges, counsel, and parties are not subject to different standards of conduct.

The Guidelines should be adopted following such notice to the parties and counsel as would be given under local procedures with regard to any important procedural decision under similar circumstances. If communication with other courts is urgently needed, the local procedures, including notice requirements, that are used in urgent or emergency situations should be employed, including, if appropriate, an initial period of effectiveness, followed by further consideration of the Guidelines at a later time. Questions about the parties entitled to such notice (for example, all parties or representative parties or representative counsel) and the nature of the court's

consideration of any objections (for example, with or without a hearing) are governed by the Rules of Procedure in each jurisdiction and are not addressed in the Guidelines.

The Guidelines are not meant to be static, but are meant to be adapted and modified to fit the circumstances of individual cases and to change and evolve as the international insolvency community gains experience from working with them. They are to apply only in a manner that is consistent with local procedures and local ethical requirements. They do not address the details of notice and procedure that depend upon the law and practice in each jurisdiction. However, the Guidelines represent approaches that are likely to be highly useful in achieving efficient and just resolutions of cross-border insolvency issues. Their use, with such modifications and under such circumstances as may be appropriate in a particular case, is therefore recommended.

Guideline 1

Except in circumstances of urgency, prior to a communication with another Court, the Court should be satisfied that such a communication is consistent with all applicable Rules of Procedure in its country. Where a Court intends to apply these Guidelines (in whole or in part and with or without modifications), the Guidelines to be employed should, wherever possible, be formally adopted before they are applied. Coordination of Guidelines between courts is desirable and officials of both courts may communicate in accordance with Guideline 8(d) with regard to the application and implementation of the Guidelines.

Guideline 2

A Court may communicate with another Court in connection with matters relating to proceedings before it for the purposes of coordinating and harmonizing proceedings before it with those in the other jurisdiction.

Guideline 3

A Court may communicate with an Insolvency Administrator in another jurisdiction or an authorized Representative of the Court in that jurisdiction in connection with the coordination and harmonization of the proceedings before it with the proceedings in the other jurisdiction.

Guideline 4

A Court may permit a duly authorized Insolvency Administrator to communicate with a foreign Court directly, subject to the approval of the foreign Court, or through an Insolvency Administrator in the other jurisdiction or through an authorized Representative of the foreign Court on such terms as the Court considers appropriate.

Guideline 5

A Court may receive communications from a foreign Court or from an authorized Representative of the foreign Court or from a foreign Insolvency Administrator and

should respond directly if the communication is from a foreign Court (subject to Guideline 7 in the case of two-way communications) and may respond directly or through an authorized Representative of the Court or through a duly authorized Insolvency Administrator if the communication is from a foreign Insolvency Administrator, subject to local rules concerning ex parte communications.

Guideline 6

Communications from a Court to another Court may take place by or through the Court:

(a) Sending or transmitting copies of formal orders, judgments, opinions, reasons for decision, endorsements, transcripts of proceedings, or other documents directly to the other Court and providing advance notice to counsel for affected parties in such manner as the Court considers appropriate;

(b) Directing counsel or a foreign or domestic Insolvency Administrator to transmit or deliver copies of documents, pleadings, affidavits, factums, briefs, or other documents that are filed or to be filed with the Court to the other Court in such fashion as may be appropriate and providing advance notice to counsel for affected parties in such manner as the Court considers appropriate;

(c) Participating in two-way communications with the other Court by telephone or video conference call or other electronic means, in which case Guideline 7 should apply.

Guideline 7

In the event of communications between the Courts in accordance with Guidelines 2 and 5 by means of telephone or video conference call or other electronic means, unless otherwise directed by either of the two Courts:

(a) Counsel for all affected parties should be entitled to participate in person during the communication and advance notice of the communication should be given to all parties in accordance with the Rules of Procedure applicable in each Court;

(b) The communication between the Courts should be recorded and may be transcribed. A written transcript may be prepared from a recording of the communication which, with the approval of both Courts, should be treated as an official transcript of the communication;

(c) Copies of any recording of the communication, of any transcript of the communication prepared pursuant to any Direction of either Court, and of any official transcript prepared from a recording should be filed as part of the record in the proceedings and made available to counsel for all parties

in both Courts subject to such Directions as to confidentiality as the Courts may consider appropriate; and

(d) The time and place for communications between the Courts should be to the satisfaction of both Courts. Personnel other than Judges in each Court may communicate fully with each other to establish appropriate arrangements for the communication without the necessity for participation by counsel unless otherwise ordered by either of the Courts.

Guideline 8

In the event of communications between the Court and an authorized Representative of the foreign Court or a foreign Insolvency Administrator in accordance with Guidelines 3 and 5 by means of telephone or video conference call or other electronic means, unless otherwise directed by the Court:

(a) Counsel for all affected parties should be entitled to participate in person during the communication and advance notice of the communication should be given to all parties in accordance with the Rules of Procedure applicable in each Court;

(b) The communication should be recorded and may be transcribed. A written transcript may be prepared from a recording of the communication which, with the approval of the Court, can be treated as an official transcript of the communication;

(c) Copies of any recording of the communication, of any transcript of the communication prepared pursuant to any Direction of the Court, and of any official transcript prepared from a recording should be filed as part of the record in the proceedings and made available to the other Court and to counsel for all parties in both Courts subject to such Directions as to confidentiality as the Court may consider appropriate; and

(d) The time and place for the communication should be to the satisfaction of the Court. Personnel of the Court other than Judges may communicate fully with the authorized Representative of the foreign Court or the foreign Insolvency Administrator to establish appropriate arrangements for the communication without the necessity for participation by counsel unless otherwise ordered by the Court.

Guideline 9

A Court may conduct a joint hearing with another Court. In connection with any such joint hearing, the following should apply, unless otherwise ordered or unless otherwise provided in any previously approved Protocol applicable to such joint hearing:

(a) Each Court should be able to simultaneously hear the proceedings in the other Court.

(b) Evidentiary or written materials filed or to be filed in one Court should, in accordance with the Directions of that Court, be transmitted to the other Court or made available electronically in a publicly accessible system in advance of the hearing. Transmittal of such material to the other Court or its public availability in an electronic system should not subject the party filing the material in one Court to the jurisdiction of the other Court.

(c) Submissions or applications by the representative of any party should be made only to the Court in which the representative making the submissions is appearing unless the representative is specifically given permission by the other Court to make submissions to it.

(d) Subject to Guideline 7(b), the Court should be entitled to communicate with the other Court in advance of a joint hearing, with or without counsel being present, to establish Guidelines for the orderly making of submissions and rendering of decisions by the Courts, and to coordinate and resolve any procedural, administrative, or preliminary matters relating to the joint hearing.

(e) Subject to Guideline 7(b), the Court, subsequent to the joint hearing, should be entitled to communicate with the other Court, with or without counsel present, for the purpose of determining whether coordinated orders could be made by both Courts and to coordinate and resolve any procedural or nonsubstantive matters relating to the joint hearing.

Guideline 10

The Court should, except upon proper objection on valid grounds and then only to the extent of such objection, recognize and accept as authentic the provisions of statutes, statutory or administrative regulations, and rules of court of general application applicable to the proceedings in the other jurisdiction without the need for further proof or exemplification thereof.

Guideline 11

The Court should, except upon proper objection on valid grounds and then only to the extent of such objection, accept that Orders made in the proceedings in the other jurisdiction were duly and properly made or entered on or about their respective dates and accept that such Orders require no further proof or exemplification for purposes of the proceedings before it, subject to all such proper reservations as in the opinion of the Court are appropriate regarding proceedings by way of appeal or review that are actually pending in respect of any such Orders.

Guideline 12

The Court may coordinate proceedings before it with proceedings in another jurisdiction by establishing a Service List that may include parties that are entitled to receive notice of proceedings before the Court in the other jurisdiction ("Non-Resident

Parties"). All notices, applications, motions, and other materials served for purposes of the proceedings before the Court may be ordered to also be provided to or served on the Non-Resident Parties by making such materials available electronically in a publicly accessible system or by facsimile transmission, certified or registered mail or delivery by courier, or in such other manner as may be directed by the Court in accordance with the procedures applicable in the Court.

Guideline 13

The Court may issue an Order or issue Directions permitting the foreign Insolvency Administrator or a representative of creditors in the proceedings in the other jurisdiction or an authorized Representative of the Court in the other jurisdiction to appear and be heard by the Court without thereby becoming subject to the jurisdiction of the Court.

Guideline 14

The Court may direct that any stay of proceedings affecting the parties before it shall, subject to further order of the Court, not apply to applications or motions brought by such parties before the other Court or that relief be granted to permit such parties to bring such applications or motions before the other Court on such terms and conditions as it considers appropriate. Court-to-Court communications in accordance with Guidelines 6 and 7 hereof may take place if an application or motion brought before the Court affects or might affect issues or proceedings in the Court in the other jurisdiction.

Guideline 15

A Court may communicate with a Court in another jurisdiction or with an authorized Representative of such Court in the manner prescribed by these Guidelines for purposes of coordinating and harmonizing proceedings before it with proceedings in the other jurisdiction regardless of the form of the proceedings before it or before the other Court wherever there is commonality among the issues and/or the parties in the proceedings. The Court should, absent compelling reasons to the contrary, so communicate with the Court in the other jurisdiction where the interests of justice so require.

Guideline 16

Directions issued by the Court under these Guidelines are subject to such amendments, modifications, and extensions as may be considered appropriate by the Court for the purposes described above and to reflect the changes and developments from time to time in the proceedings before it and before the other Court. Any Directions may be supplemented, modified, and restated from time to time and such modifications, amendments, and restatements should become effective upon being accepted by both Courts. If either Court intends to supplement, change, or abrogate Directions issued under these Guidelines in the absence of joint approval by both Courts, the Court should give the other Courts involved reasonable notice of its intention to do so.

Guideline 17

Arrangements contemplated under these Guidelines do not constitute a compromise or waiver by the Court of any powers, responsibilities, or authority and do not constitute a substantive determination of any matter in controversy before the Court or before the other Court nor a waiver by any of the parties of any of their substantive rights and claims or a diminution of the effect of any of the Orders made by the Court or the other Court.

CV-18-597987-OOCL

Court File No.:

***PANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED**

OCKPORT BLOCKER, LLC, THE ROCKPORT GROUP HOLDINGS, LLC, TRG 1-P HOLDINGS, LLC, TRG LLC, TRG CLASS D, LLC, THE ROCKPORT GROUP, LLC, THE ROCKPORT COMPANY, LLC, DRYDOCK EMENT SERVICES LLC AND ROCKPORT CANADA ULC (THE "DEBTORS")

' BLOCKER, LLC, UNDER SECTION 46 OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c.

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

PROCEEDINGS COMMENCED AT TORONTO

SUPPLEMENTAL ORDER
(Foreign Main Proceeding - May 16, 2018)

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EXHIBIT C

Court File No. _____

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED

AND IN THE MATTER OF ROCKPORT BLOCKER, LLC, THE ROCKPORT GROUP HOLDINGS, LLC, TRG 1-P HOLDINGS, LLC, TRG INTERMEDIATE HOLDINGS, LLC, TRG CLASS D, LLC, THE ROCKPORT GROUP, LLC, THE ROCKPORT COMPANY, LLC, DRYDOCK FOOTWEAR, LLC, DD MANAGEMENT SERVICES LLC AND ROCKPORT CANADA ULC

APPLICATION OF ROCKPORT BLOCKER, LLC, UNDER SECTION 46 OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED

REPORT OF THE PROPOSED INFORMATION OFFICER
RICHTER ADVISORY GROUP INC.

MAY 16, 2018

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ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED

AND IN THE MATTER OF ROCKPORT BLOCKER, LLC, THE ROCKPORT GROUP HOLDINGS, LLC, TRG 1-P HOLDINGS, LLC, TRG INTERMEDIATE HOLDINGS, LLC, TRG CLASS D, LLC, THE ROCKPORT GROUP, LLC, THE ROCKPORT COMPANY, LLC, DRYDOCK FOOTWEAR, LLC, DD MANAGEMENT SERVICES LLC AND ROCKPORT CANADA ULC

APPLICATION OF ROCKPORT BLOCKER, LLC, UNDER SECTION 46 OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED

REPORT OF THE PROPOSED INFORMATION OFFICER
RICHTER ADVISORY GROUP INC.

MAY 16, 2018

I. INTRODUCTION

1. On May 14, 2018 (the **"Petition Date"**), Rockport Blocker, LLC (**"Rockport Blocker"**), The Rockport Group Holdings, LLC, TRG 1-P Holdings, LLC, TRG Intermediate Holdings, LLC, TRG Class D, LLC, The Rockport Group, LLC, The Rockport Company, LLC, Drydock Footwear, LLC, DD Management Services LLC (collectively, the **"US Debtors"**), and Rockport Canada ULC (**"Rockport Canada"** and together with the US Debtors, the **"Rockport Group"** or the **"Debtors"**), commenced voluntary reorganization proceedings (the **"Chapter 11 Proceedings"**) in the United States Bankruptcy Court for the District of Delaware (the **"US Court"**) by each filing a voluntary petition for relief under chapter 11 of title 11 of the United States Code, 11 U.S.C. 101-1532 (the **"Bankruptcy Code"**).

2. Also on the Petition Date, the Debtors filed various motions for interim and/or final orders (the **"First Day Motions"** and the orders granted by the US Court in respect thereof, the **"First Day Orders"**) in the Chapter 11 Proceedings to permit the Debtors to advance their reorganization. The First Day Orders included an order authorizing Rockport Blocker to act as the foreign representative (in such capacity, the **"Foreign Representative"**) of the Debtors for the within proceedings (the **"Foreign Representative Order"**).

3. On May 15, 2018, the US Court granted the Foreign Representative Order and other First Day Orders (as described below).

4. On May 15, 2018, Rockport Blocker, in its capacity as Foreign Representative, commenced an application before the Ontario Superior Court of Justice (Commercial List) (the **"Canadian Court"**) pursuant to Part IV of the *Companies' Creditors Arrangement Act* (R.S.C. 1985, c. C-36, as amended) (the "**CCAA**") for:

   (a) an initial recognition order (the **"Initial Recognition Order"**), *inter alia*: (i) declaring that Rockport Blocker is a "foreign representative" as defined in section 45 of the CCAA; (ii) declaring that the Chapter 11 Proceedings are recognized as a "foreign main proceeding" under the CCAA; and (iii) granting a stay of proceedings against the Rockport Group in Canada; and

   (b) a supplemental order (the **"Supplemental Order"**), pursuant to section 49 of the CCAA, *inter alia*: (i) recognizing and giving full force and effect in Canada to certain of the First Day Orders; (ii) appointing Richter Advisory Group Inc. (**"Richter"** or the **"Proposed Information Officer"**) as the information officer (the **"Information Officer"**) in respect of these proceedings; (iii) staying any proceeding, rights or remedies against or in respect of the Rockport Group, the business and property of the Rockport Group, the directors and officers of the Rockport Group in Canada, and the Information Officer; (iv) restraining the right of any person or entity to, among other things, discontinue or terminate any supply of products or services required by the Rockport Group in Canada; (v) granting a super-priority charge over the Debtors' property in Canada in favour of the Proposed

Information Officer and its counsel, as security for their professional fees and disbursements incurred in respect of these proceedings, up to a maximum amount of $300,000 (the **"Administration Charge"**); and (vi) granting a super-priority charge over the Debtors' property in Canada in favour of the DIP ABL Lenders (as hereinafter defined) to secure obligations of the Rockport Group, including Rockport Canada, under the DIP ABL Facility (as hereinafter defined) (the **"DIP ABL Lenders' Charge"**).

5. Other than these proceedings (the **"CCAA Recognition Proceedings"**) and the Chapter 11 Proceedings, there are currently no other foreign proceedings in respect of the Rockport Group of which the Proposed Information Officer is aware.

6. The primary purpose of the Chapter 11 Proceedings is to facilitate the Rockport Group's entry into an asset purchase agreement to sell substantially all of the Debtors' assets to CB Marathon Opco, LLC, an affiliate of Charlesbank Equity Fund IX, Limited Partnership (**"Charlesbank"**), or another higher or otherwise better bidder pursuant to section 363 of the Bankruptcy Code.

II. PURPOSE OF REPORT

7. The purpose of this report of the Proposed Information Officer (the **"Pre-Filing Report"**) is to assist the Canadian Court in considering the Foreign Representative's request for the Initial Recognition Order and the Supplemental Order, and to provide the Canadian Court with certain background information concerning the Rockport Group, including:

   (a) Richter's qualifications to act as Information Officer;

   (b) the Rockport Group's business and operations, including its organizational structure and financing facilities;

   (c) Rockport Canada, the sole Canadian incorporated member of the Rockport Group;

   (d) the Debtors' centre of main interest;

   (e) the events leading up to the Chapter 11 Proceedings and the CCAA Recognition Proceedings;

   (f) the First Day Orders of the US Court that the Debtors are seeking to have recognized pursuant to section 46 of the CCAA;

   (g) the Proposed ABL Liability Allocation (as hereinafter defined);

(h) the proposed Administration Charge and the DIP ABL Lenders' Charge; and

(i) the proposed initial activities of the Information Officer.

III. TERMS OF REFERENCE

8. In preparing this Pre-Filing Report, the Proposed Information Officer has relied solely on information and documents provided by the Debtors and their advisors, including unaudited financial information, declarations and affidavits of the Debtors' executives and other information provided in the Chapter 11 Proceedings (collectively, the **"Information"**). In accordance with industry practice, except as otherwise described in the Pre-Filing Report, Richter has reviewed the Information for reasonableness, internal consistency, and use in the context in which it was provided. However, Richter has not audited or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would comply with Generally Accepted Auditing Standards (**"GAAS"**) pursuant to the *Chartered Professional Accountant of Canada Handbook* and, as such, Richter expresses no opinion or other form of assurance contemplated under GAAS in respect of the Information.

9. Unless otherwise stated, all monetary amounts contained herein expressed in United States dollars, which is the Debtors' common reporting currency.

10. Capitalized terms not otherwise defined herein are as defined in the application materials, including the declaration of Paul Kosturos interim Chief Financial Officer of the Debtors in support of Debtors' Chapter 11 Petition and First Day Motions, sworn May 14, 2018 (the **Kosturos US Declaration")** and the affidavit of Paul Kosturos, sworn May 15, 2018 (the **"Kosturos Cdn Affidavit"** and together with the Kosturos US Declaration the **"Kosturos Affidavits"**) filed in support of the Foreign Representative's application. This Pre-Filing Report should be read in conjunction with the Kosturos Affidavits, as certain information contained in the Kosturos Affidavits has not been included herein in order to avoid unnecessary duplication.

IV. RICHTER'S QUALIFICATION TO ACT AS INFORMATION OFFICER

11. Richter has significant experience in connection with proceedings under the CCAA, including acting as a Monitor or information officer in various cases.

12. Adam Sherman and Pritesh Patel, the individuals at Richter with primary carriage of this matter, are certified Chartered Insolvency and Restructuring Professionals and Licensed Insolvency Trustees. Further, Messrs. Sherman and Patel have acted in cross-border restructurings and CCAA matters of a similar nature in Canada.

13. Richter has consented to act as Information Officer should this Canadian Court approve the requested Supplemental Order.

V. BACKGROUND

Corporate Overview and Organizational Structure

14. The Proposed Information Officer understands that the Debtors, which were founded in 1971, are an integrated global designer, distributor and retailer of comfort footwear that operates in excess of fifty markets worldwide. The Debtors offer a wide assortment of men's and women's casual dress style shoes, boots, and sandals under the Rockport brand as well as their owned Aravon and Dunham brands.

15. The Debtors' operate a global, multi-channel business, organized by brand, geography and customer type, in the following market segments:

    (a) **Wholesale Business** – the Debtors are a leading supplier of men's and women's footwear to well-known retailers across a variety of wholesale formats, including department stores, family retail outlets, internet retailers and independently-owned retailers. The Debtors' wholesale business accounts for approximately 57% of global sales.

    (b) **Direct North American Retail Store Business** – The Debtors operate 8 full-price and 19 outlet stores in the United States and 14 full-price and 19 outlet stores in Canada.

    (c) **Direct eCommerce Business** – the Debtors sell their footwear products directly through the following websites: http://www.rockport.com and http://www.rockport.ca.

    (d) **International Business** – the Debtors have partnered with 22 distributors worldwide to sell their footwear products in 35 countries, including China, Indonesia, Egypt, South Africa, Mexico and Peru, without having to establish local operations. In addition, the Debtors' non-debtor foreign affiliates operate approximately 121 retail stores across the world.

16. The Rockport Group sources its inventory and other items related to its operations (collectively, the **"Merchandise"**) from third-party manufacturers located primarily in China, Vietnam, India and Brazil. In addition, the Debtors rely on a global network of carriers, expeditors, consolidators, warehousemen and transportation service providers to transport, import and take delivery of the Merchandise on a worldwide basis.

17. In particular, the Debtors rely on warehouseman and logistics providers to (i) coordinate and process various import duties and related charges at ports or transportation centers around the world and (ii) transport and store Merchandise at the Debtors' warehousing and distribution centers located in the United States, Canada (in Brampton, Ontario) and internationally.

18. The Debtors' business in the United States is operated by The Rockport Company, LLC (**"Rockport US"**) and the Debtors' Canadian business is operated by Rockport Canada, a British Columbia unlimited liability company. An organizational chart setting out the corporate structure of the Rockport Group is attached as Exhibit "P" to the Kosturos Cdn Affidavit.

19. Details of the Rockport Group, its incorporating jurisdictions and the location of its head offices are as follows:

Debtor	Jurisdiction of Incorporation	Head Office
Rockport Blocker, LLC	Delaware	West Newton, Massachusetts
The Rockport Group Holdings, LLC	Delaware	West Newton, Massachusetts
TRG 1-P Holdings, LLC	Delaware	West Newton, Massachusetts
TRG Intermediate Holdings, LLC	Delaware	West Newton, Massachusetts
TRG Class D, LLC	Delaware	West Newton, Massachusetts
The Rockport Group, LLC	Delaware	West Newton, Massachusetts
The Rockport Company, LLC	Delaware	West Newton, Massachusetts
Drydock Footwear, LLC	Delaware	West Newton, Massachusetts
DD Management Services LLC	Massachusetts	West Newton, Massachusetts
Rockport Canada ULC	British Columbia	West Newton, Massachusetts

20. Rockport Canada is the only Debtor incorporated in Canada.

Capital Structure – Debt Obligations

21. As at the Petition Date, the Debtors' consolidated long-term debt obligations totaled approximately $257 million. The Debtors' consolidated long-term debt obligations outstanding as at the Petition Date are outlined in the below table and in the paragraphs that follow:

Indebtedness	Principal Outstanding (USD$ millions)
Prepetition ABL Facility	57.0
Prepetition Notes Facility	188.3
Prepetition Subordinated Note	11.9
Total	**257.2**

22. In addition to the above long-term debt obligations, as at the Petition Date, the Debtors estimate that they have unsecured obligations owing to trade creditors totaling approximately $29.6 million

Prepetition ABL Facility

23. As noted in the Kosturos Affidavits, the Debtors have outstanding secured debt to various lenders pursuant to a revolving credit agreement, dated July 31, 2015 (as amended, supplemented, restated or otherwise modified from time to time, the **"Prepetition ABL Facility"**) among certain of the Debtors, including Rockport Canada, and Citizens Business Capital (**"CBC"**), as administrative agent and collateral agent for the lenders. The Prepetition ABL Facility provides for borrowings of up to $60 million in aggregate principal revolving loan commitments and a sublimit of $10 million for letters of credit.

24. Although Rockport Canada's borrowing availability under the Prepetition ABL Facility has been reduced to zero, Rockport Canada is jointly and severally liable both as a borrower and as a guarantor of the Rockport Group's obligations under the Prepetition ABL Facility and has provided security over all of its assets to secure such obligations (the **"CBC Security"**).

25. Prior to the Petition Date, the Prepetition ABL Facility was used to fund the Rockport Group's daily operations and the Debtors made daily requests to CBC to transfer available funds under the Prepetition ABL Facility into the Debtors' primary operating account. In turn, Rockport would distribute funds to entities/affiliates of the Rockport Group, as needed by way of intercompany transfers.

26. Although Rockport Canada has not borrowed any monies directly under the Prepetition ABL Facility (Rockport Canada has guaranteed all amounts owing under the Prepetition ABL Facility), its assets were included in the facility's borrowing base and funds received under the facility were used to, among other things, purchase Merchandise sold by Rockport Canada. As such, Rockport Canada's access to the funding provided to other Debtors under the Prepetition ABL Facility was critical to its ability to operate as a going concern prior to the Petition Date.

27. As at the Petition Date, approximately $57 million (including issued/outstanding letters of credit totaling approximately $3.5 million) was outstanding under the Prepetition ABL Facility.

28. The Proposed Information Officer has received an opinion from its independent legal counsel, Stikeman Elliott LLP, confirming that subject to the typical qualifications and assumptions, the CBC Security is valid and enforceable in the provinces of Ontario and Quebec. At present, the Proposed Information Officer has not obtained an opinion regarding the validity and enforceability of the CBC Security in other provinces where Rockport Canada has operations. The Proposed Information Officer does note that, with the exception of CBC, there are no other registered security interests against Rockport Canada in the provinces where Rockport Canada has operations.

Prepetition Notes Facility

29. As at the Petition Date, the Debtors (excluding Rockport Canada) have outstanding secured debt in respect of the senior secured notes issued by certain of the Debtors in 2015 (and due in 2022) in the original principal amount of $130 million (the **"Initial Prepetition Notes"**). Prior to the Petition Date, approximately $41 million in additional senior secured notes (the **"Additional Prepetition Notes"** and together with the Initial Prepetition Notes, the **"Prepetition Notes Facility"**) were issued to the holders (the "**Prepetition Noteholders**") of the Initial Prepetition Notes. The Additional Prepetition Notes are senior in right of payment to the Initial Prepetition Notes. The Rockport Group (excluding Rockport Canada) has pledged all of its assets to secure the Debtors' obligations under the Prepetition Notes Facility (the **"Notes Security"**). Pursuant to an Intercreditor Agreement dated July 31, 2015 between CBC and the Cortland Capital Market Services LLC (in its capacity as agent under the Prepetition Notes Facility), the CBC Security ranks in priority to the Notes Security in respect of the Revolving Priority Collateral (as defined therein) and the Notes Security ranks in priority to the CBC Security in relation to the Notes Priority Collateral (as defined therein) in relation to the same assets. As noted above, the Notes Security does not include the Rockport Canada assets.

30. As at the Petition Date, approximately $188.3 million was outstanding under the Prepetition Notes Facility.

31. The Proposed Information Officer understands that the Prepetition Notes Facility was used to provide the Debtors with additional liquidity and to fund day-to-day operations.

Prepetition Subordinate Notes

32. As at the Petition Date, the Debtors (excluding Rockport Canada) have outstanding obligations pursuant to certain promissory notes issued by certain of the Debtors in 2015 in favour of Reebok International Ltd. (the **"Prepetition Subordinated Notes"**). As at the Petition Date, approximately $11.9 million was outstanding under the Prepetition Subordinated Notes.

33. The Prepetition Subordinated Notes are unsecured and, pursuant to an agreement dated July 31, 2015, subordinated to the Prepetition ABL Facility and the Prepetition Notes Facility.

Overview of Rockport Canada's Business

34. Rockport Canada is an indirect wholly-owned subsidiary of Rockport US. Although Rockport Canada's registered office is located in Vancouver, British Columbia, the Proposed Information Officer understands that all material decisions regarding Rockport Canada and its business operations are made by Rockport US personnel in the United States.

35. Rockport Canada's operations include 14 retail (i.e. full-price) stores and 19 outlet stores, which are located in Alberta (6), British Columbia (3), Manitoba (2), Nova Scotia (1), Ontario (16), Prince Edward Island (1) and Quebec (4). All of Rockport Canada's retail/outlet locations are leased.

36. Rockport Canada operates a warehouse and distribution facility located in Brampton, Ontario, which is leased by Expeditors International of Washington, Inc. (**"Expeditors"**). Expeditors coordinates and processes import duties and arranges for transport of the Rockport Group's inventory, including the inventory of Rockport Canada in the Brampton warehouse.

Financial Position of Rockport Canada

37. The Proposed Information Officer understands that Rockport Canada does not independently report its financial results. Rockport Canada's financial reporting is included as part of consolidated reporting for the Rockport Group.

38. As at February 28, 2018 (the date of the most recent internal unaudited financial information for Rockport Canada), Rockport Canada had assets with a book value of approximately CAD$40.9 million and total liabilities of approximately CAD$36.5 million.

39. As previously noted (although not reflected in the above internal unaudited financials), Rockport Canada is jointly and severally liable for all amounts owing under the Prepetition ABL Facility. As at the Petition Date, approximately $57 million was outstanding under the Prepetition ABL Facility.

40. In addition, as at February 28, 2018, Rockport Canada's assets include approximately CAD$24.3 million of inventory (on-hand and in-transit). As a result of Rockport Canada's dependence on the Rockport Group for corporate, managerial and other support functions, including sourcing and procurement of inventory, Rockport Canada's Merchandise is acquired by the Rockport Group such that Rockport Canada does not have significant third-party accounts payable. As at February 28, 2018, Rockport Canada's outstanding intercompany obligations to other Rockport Group entities represented approximately 90% of Rockport Canada's total indebtedness or approximately CAD$32.6 million.

41. As at the Petition Date, the Proposed Information Officer understands that Rockport Canada has approximately CAD$1.1 million of cash on hand.

Employees of Rockport Canada

42. As at the Petition Date, Rockport Canada had 220 employees (4 salespersons and 216 retail employees). The Rockport Canada employees are not represented by a union and Rockport Canada does not sponsor any pension plans for its employees.

43. Rockport Canada maintains compensation and benefits programs for its employees, including an RRSP program. Pursuant to the RRSP program, the Rockport Group contributes an amount equal to 7.5% of a participating employee's earnings provided that the participating employee contributes at least 2.5% of his or her earnings. As at the Petition Date, Rockport Canada owes approximately $140,000 in amounts due to its employees under its compensation and benefits programs. The Wages Order (as hereinafter defined) provides for the ongoing payment of wages and benefits to all employees of the Rockport Group.

Rockport Canada's Cash Management System

44. The Rockport Group uses an integrated, centralized cash management system operated by the treasury team in the United States to collect, transfer and disburse funds generated by the Rockport Group (the **"Cash Management System"**).

45. Rockport Canada maintains several bank accounts in Canada (HSBC Bank of Canada) denominated in both Canadian and US dollars (the **"Canadian Operations Accounts"**).

46. Notwithstanding that the Canadian Operations Accounts largely operate as a self-contained cash management system within the broader Cash Management System of the Rockport Group, the cash management system of Rockport Canada is dependent upon the Rockport Group for all treasury and related services – no Rockport Canada employees have access to the Canadian Operating Accounts (other than to request deposit slips for the operating account).

47. Prior to the Petition Date, excess cash from the Canadian Operations Accounts was periodically transferred to accounts maintained by Rockport US in partial satisfaction of Rockport Canada's intercompany obligations to the US Debtors for supplied Merchandise. During the course of these proceedings, the Proposed Information Officer understands that Rockport US will cease the practice of sweeping excess cash from the Canadian Operations Accounts such that all funds generated from Rockport Canada's operations throughout these proceedings will remain available to Rockport Canada.

48. Further details regarding the Cash Management System, including Rockport Canada's cash management system, are provided in the Kosturos Affidavits.

VI. CENTRE OF MAIN INTEREST

49. The Rockport Group operates a highly integrated business managed out of the United States where the Debtors maintain their head office. Although Rockport Canada's registered office is in Vancouver, British Columbia, the Proposed Information Officer understands:

(a) all material decisions regarding the Rockport Canada business and its operations are managed by Rockport Group personnel located in the United States. In particular, all of Rockport Canada's treasury and financial decisions, including borrowing and pricing decisions are made at the Debtors' head office located in West Newton, Massachusetts (the **"US Head Office"**);

(b) the Rockport Group's human resources, legal, accounting, information technology, marketing and communications functions are primarily administered from the US Head Office;

(c) Rockport Canada does not have any human resources personnel. Human resource matters for Rockport Canada are managed by the US Head Office;

(d) there are no management personnel employed directly by Rockport Canada or located in Canada. Rockport Canada does, however, employ store managers and area managers to oversee day-to-day operations of Rockport Canada stores. The area managers oversee the posting of jobs and identifying staffing needs, but they cannot make decisions on hiring or terminating employees without the approval of the US Head Office;

(e) other than the retail employees located at Rockport Canada stores across Canada, there are no customer service personnel employed by Rockport Canada. All customer service matters are managed by the US Head Office (other than in-store service);

(f) all of Rockport Canada's accounts payable and accounts receivable are managed from the US Head Office;

(g) Rockport Canada does not have any information technology personnel. All technology decisions and issues are managed by the US Head Office. Further, the Rockport Group's e-commerce sites are managed in the United States;

(h) although Rockport Canada's inventory is distributed from a warehouse located in Brampton, Ontario, all decisions regarding inventory management are made at the US Head Office, which forecasts inventory needs and places orders on behalf of Rockport Canada;

(i) all strategic decisions for Rockport Canada, including asset management, capital expenditure and planning decisions are made by the US Head Office;

(j) Rockport Canada's sole director is Robert Infantino, a resident of West Newton, Massachusetts;

(k) Rockport Canada's officers are Robert Infantino, Karla Jarvis, Michael Smith and Georgina Wraight, each of whom are residents of West Newton, Massachusetts; and

(l) the Prepetition ABL Facility is a credit facility for the benefit of the Rockport Group, including Rockport Canada;

50. Based on the foregoing, the Proposed Information Officer believes it is reasonable to conclude that the Debtors' (including Rockport Canada) "centre of main interest" is in the United States.

VII. EVENTS LEADING TO THE CHAPTER 11 PROCEEDINGS AND CCAA RECOGNITION PROCEEDINGS

51. The Proposed Information Officer understands that over the past several years, the Rockport Group has faced economic headwinds and operational challenges that significantly and adversely impacted the operating performance of the Debtors' business, including:

(a) a costly and time consuming separation from the logistics and information technology networks of the former owners of the Rockport division of the Debtors' business;

(b) disruptive and costly supply chain interruptions; and

(c) the poor performance of certain retail locations.

52. In December 2017, the Rockport Group retained Houlihan Lokey, Inc. (**"Houlihan"**), an investment bank with experience in mergers and acquisitions, recapitalization and financial restructurings, to explore a potential sale of the Rockport Group's assets.

53. As part of this effort, Houlihan commenced a robust marketing process for the sale of all, or certain of the Rockport Group's assets and contacted 110 potential strategic and financial acquirers regarding the opportunity (the **"Potential Interested Parties"**). Approximately 60 Potential Interested Parties executed a non-disclosure agreement to review certain confidential business and financial information and access a data room containing preliminary diligence materials. 10 parties later submitted initial, non-binding indications of interest by the submission deadline of February 6, 2018, of which 7 were granted access to a data room containing additional confidential business and financial information and 6 met with senior management of the Rockport Group in person to review the opportunity and ask any questions in connection therewith.

54. On or before March 29, 2018, 3 parties submitted final letters of intent and a further verbal bid was received on April 4, 2018.

The Transaction

55. After reviewing and carefully considering the bids received, the Rockport Group determined, in consultation with its advisors, that Charlesbank had submitted the highest or otherwise best offer, pursuant to which Charlesbank agreed to acquire substantially all of the Rockport Group's assets (other than the Rockport Group's North American retail assets) for a purchase price of (i) $150,000,000 in cash (the "**Base Cash Amount**") subject to certain working capital adjustments; (ii) a warrant to purchase up to 5% of the common equity of the Purchaser (as defined in the Stalking Horse Agreement (as defined below)), at an exercise price equal to 2.5 times the price of the equity invested by the Equity Commitment Party (as defined in the Stalking Horse Agreement) in Parent Holdco (as defined in the Stalking Horse Agreement) as of the Closing Date (as defined in the Stalking Horse Agreement); and (iii) the assumption of certain liabilities.

56. Following good faith, arm's length negotiations between the parties and in consultation with their advisors and key stakeholders, the Rockport Group and Charlesbank entered into an Asset Purchase Agreement, dated as of May 13, 2018 (the **"Stalking Horse Agreement"**), pursuant to which Charlesbank will acquire the Purchased Assets (as defined in the Stalking Horse Agreement), subject to higher or otherwise better offers.

57. Under the terms of the Stalking Horse Agreement, the Rockport Group's North American retail assets (i.e. retail leases and related inventory in the US and Canada) are currently identified as excluded assets. Charlesbank is still considering whether it is interested in acquiring any portion of the Rockport Group's North American retail assets. The Stalking Horse Agreement provides that, for a period of 25 days following the Petition Date, the Rockport Group will not sell or otherwise dispose of any Inventory (as defined in the Stalking Horse Agreement) other than in the ordinary course of business (the **"No Liquidation Period"**).

58. Although Charlesbank is contemplating acquiring a portion of the North American retail assets, the Proposed Information Officer understands that, based on the Rockport Group's discussions with Charlesbank, the Rockport Group is of the view that Charlesbank does not intend to acquire all or substantially all of the North American retail assets.

59. As part of the initial materials filed with the US Court, the Rockport Group has filed a motion seeking the approval of the US Court to conduct store closing sales for the Rockport Group's North American retail business, subject to the ability to remove any retail location from the relief granted to the extent necessary to comply with the Stalking Horse Agreement or otherwise maximize value in connection with the sale process. Draft sales guidelines governing the conduct of any North American retail store closures (the **"Sale Guidelines"**) were negotiated and attached as a schedule to the Stalking Horse Agreement, and filed with the store closing sales motion. The Proposed Information Officer understands that the motion, if required, will be returnable on June 5, 2018. The Proposed Information Officer understands the US Debtors anticipate self-liquidating any retail stores not included in the Stalking Horse Agreement

(or higher or otherwise better offer identified through the sale process), with the assistance of a consultant to be identified by the Debtors.

60. In respect of the Stalking Horse Agreement and related sales process, the Rockport Group has filed with the US Court a motion seeking the US Court's approval of the bidding procedures designed to maximize the value received for the Rockport Group's assets (the "**Bidding Procedures Order**"), returnable on June 5, 2018. The Bidding Procedures Order, among other things:

(a) seeks to establish bidding and auction procedures in connection with the sale of the Rockport Group's assets;

(b) seeks approval of the proposed bid protections, including the payment of a break-up fee in an amount equal to 3% of the Base Cash Amount (i.e. $4.5 million), pursuant to the Stalking Horse Agreement;

(c) seeks reimbursement of certain expenses incurred by Charlesbank (up to $2 million), in accordance with the Stalking Horse Agreement;

(d) schedules an auction and sets a date and time for the sale hearing; and

(e) establishes procedures for notice and to determine cure amounts for contracts and leases to be assumed and assigned in connection with any sale transaction.

61. The anticipated Bidding Procedures Order will also authorize, subject to the results of the auction, entry of an order to (a) approve and authorize a sale to the winning bidder; (b) authorize the assumption and assignment of certain contracts and leases; and (c) authorize the Rockport Group to enter into a transition services agreement, as contemplated by the Stalking Horse Agreement.

62. The anticipated timeline pursuant to the Bidding Procedures Order is:

Date	Activity
on or before June 5, 2018	Hearing to consider approval of the "Bidding Procedures" and entry of the "Bidding Procedures Order"
June 27, 2018 at 4:00 pm (EST)	Sale Objection Deadline
June 29, 2018 at 5:00 pm (EST)	Bid Deadline
July 3, 2018 at 5:00 pm (EST)	Deadline for Rockport Group to notify "Potential Bidders" of their status as "Qualified Bidders"
July 10, 2018 at 10:00 am (EST)	Auction to be held at the offices of Richard, Layton & Finger, P.A. (if necessary)
July 11, 2018	Target date for the Rockport Group to file with the US Court the "Notice of Auction Results"
July 13, 2018	Proposed date of the "Sale Hearing" to consider approval of the sale and entry of the "Sale Order"
on or after July 27, 2018	Closing Date (unless the "Successful Bidder" agrees to waive the 14-day stay of the "Sale Order")

63. The Proposed Information Officer has been in contact with Houlihan regarding the marketing process noted above. The Proposed Information Officer was also provided with and reviewed the confidential information memorandum provided by Houlihan to prospective purchasers, which contained certain limited information on the Rockport Group's operations, including Rockport Canada's operations, to assist with preliminary due diligence. Houlihan also informed the Proposed Information Officer of the identity of the Interested Parties and confirmed that the opportunity was presented to 1 Canadian strategic and 1 Canadian financial buyer, both of which declined the opportunity. Houlihan further advised that additional Canadian parties would not likely be contacted as part of the sales process, as the Rockport Group's assets were being marketed as a whole (as per the Stalking Horse Agreement) and the only likely Canadian buyers had already passed on the opportunity and it was unlikely that a buyer interested in Canadian only operations would be considered.

64. The Proposed Information Officer will seek additional information from the Rockport Group and Houlihan in respect of any expressions of interest received, as part of the proposed sales process, in respect of the Canadian operations.

VIII. FIRST DAY ORDERS OF THE US COURT FOR WHICH RECOGNITION IS SOUGHT

65. The Foreign Representative is seeking recognition of the following First Day Orders that have been entered by the US Court in the Chapter 11 Proceedings, each of which is attached as an Exhibit to the Kosturos Cdn Affidavit:

(a) an order directing the joint administration of the Chapter 11 cases of the Rockport Group in the US Proceedings (the **"Joint Administration Order"**);

(b) an order appointing Prime Clerk LLC as claims and noticing agent in the Chapter 11 Proceedings (the **"Claims Agent Order"**). Pursuant to the Claims Agent Order, Prime Clerk is fully responsible for the distribution of notices and the maintenance, processing and docketing of proofs of claim, if any, filed in the Chapter 11 Proceedings;

(c) an order confirming the enforcement and applicability of the protections pursuant to sections 362, 365, 525 and 541(c) of the Bankruptcy Code (the **"Automatic Stay Order"**). The Automatic Stay Order enforced and restated the automatic stay provisions of the US Code and is appropriate and necessary for the Rockport Group to continue operations while it pursues its restructuring efforts;

(d) an order recognizing Rockport Blocker as the foreign representative of the Rockport Group in Canada (the **"Foreign Representative Order"**);

(e) an interim order (i) authorizing, but not directing, the Rockport Group, in its sole discretion, to pay (a) all or a portion of the shipping and warehousing claims and (b) certain import charges; and (ii) authorizing applicable banks and other financial institutions to receive, process, honour and pay any and all cheques drawn on the

Debtors' general disbursement account and other transfers to the extent such cheques and transfers relate to any of the foregoing (the **"Shipping and Warehousemen Order"**);

(f) an interim order (i) authorizing, but not directing, the Rockport Group to pay prepetition obligations of certain (a) vendors, suppliers, service providers and similar entities that provide goods or services critical to the ongoing operation of the Debtors' business in an amount not to exceed $2 million on an interim and final basis; and (b) foreign vendors, suppliers and service providers that provide goods or services critical to the ongoing operation of the Debtors' business in an amount not to exceed $12 million on an interim basis and $20 million on a final basis; and (ii) authorizing applicable banks and other financial institutions to receive, process, honour and pay any and all cheques drawn on the Debtors' general disbursement account and other transfers to the extent such cheques and transfers relate to any of the foregoing (the **"Critical and Foreign Vendors Order"**);

(g) an interim order (i) authorizing, but not directing, the Rockport Group, in its sole discretion, to pay Covered Taxes and Fees, whether arising prior to, on or after the commencement of the Chapter 11 cases; and (ii) authorizing applicable banks and other financial institutions to receive, process, honour and pay any and all cheques drawn on the Debtors' general disbursement account and other transfers to the extent such cheques and transfers relate to any of the foregoing (the **"Taxes Order"**);

(h) an interim order (i) authorizing, but not directing, the Rockport Group to continue to renew its (a) Insurance Programs, including Premium Financing, and (b) Surety Bond Program and honour all obligations under the Insurance and Surety Bond Programs; (ii) modifying the automatic stay imposed by section 362 of the Bankruptcy Code to the extent necessary to permit the Rockport Group's employees to proceed with any claims they may have under the Worker's Compensation Program; and (iii) authorizing applicable banks and other financial institutions to receive, process, honour and pay any and all cheques drawn on the Debtors' general disbursement account and other transfers to the extent such cheques and transfers relate to any of the foregoing (the **"Insurance Order"**);

(i) an interim order (i) authorizing the Rockport Group to (a) pay certain employee compensation and benefits, (b) maintain such benefits and other employee-related programs, and (c) pay the prepetition claims of independent contractors; and (ii) authorizing applicable banks and other financial institutions to receive, process, honour and pay any and all cheques drawn on the Debtors' general disbursement account and other transfers to the extent such cheques and transfers relate to any of the foregoing (the **"Wages Order"**);

(j) an order (i) authorizing, but not directing, the Rockport Group to (a) continue to administer certain Customer Programs and (b) honour or pay Customer Obligations; and (ii) authorizing applicable banks and other financial institutions to receive, process, honour and pay any and all cheques drawn on the Debtors' general

disbursement account and other transfers to the extent such cheques and transfers relate to any of the foregoing (the **"Customer Program Order"**);

(k) an interim order (i) prohibiting the Rockport Group's utility service providers from altering or discontinuing service; (ii) approving an adequate assurance deposit as adequate assurance of post-petition payment to the utilities; and (iii) establishing procedures for resolving any subsequent requests by the utilities for additional adequate assurance of payment (the **"Utilities Order"**);

(l) an interim order authorizing the Rockport Group to continue to use its existing cash management system (the **"Cash Management System"**) and bank accounts; (ii) waiving certain bank account and related requirements of the Office of the United States Trustee for the District of Delaware; authorizing the Rockport Group to continue its existing deposit practices under the Cash Management System (subject to the Rockport Group's implementation of certain reasonable changes to the Cash Management System); (iv) extending the time to comply with section 345(b) of the Bankruptcy Code; and (v) authorizing the continued performance of certain transactions between and among the Rockport Group and certain of its affiliates, subject to certain limitations set out therein (the **"Cash Management Order"**); and

(m) an interim order, among other things, (i) approving post-petition financing; (ii) granting the liens and super-priority administrative expense claim status to CBC, as administrative and collateral agent for the DIP ABL Lenders (the **"Interim DIP Financing Order"**).

66. The Proposed Information Officer understands that Canadian parties/creditors were specifically identified and provided for in the various Orders (Warehouseman Liens, Critical Suppliers, Taxing Authorities, Wages Orders and Insurance Orders) and corresponding DIP budgets/cashflows.

67. Certain of the First Day Orders that may relevant to Canadian stakeholders are addressed further below.

Foreign Representative Order

68. The Foreign Representative Order authorizes Rockport Blocker to act as the Foreign Representative of the Rockport Group to, among other things, seek recognition of the Chapter 11 Proceedings in Canada. Pursuant to the Foreign Representative Order, the US Court requested the aid and assistance of the Canadian Court to recognize the Chapter 11 Proceedings as a "foreign main proceeding" and Rockport Blocker as a "foreign representative" under the CCAA.

Shipping and Warehousemen Order

69. The Shipping and Warehousemen Order authorizes (but does not direct) the Rockport Group to pay all or a portion of certain prepetition shipping and warehousing claims and certain prepetition import charges. The Shipping and Warehousemen Order was made on an interim basis and will be subject to a further hearing and final order.

70. The Rockport Group relies on a network of common carriers, expeditors, consolidators, warehousemen and transportation service providers, and other related parties in carrying out its global business operations. As the Rockport Group sources substantially all of its inventory and other goods from foreign countries, the Rockport Group may be required to pay certain import charges, including but not limited to, customs duties, detention and demurrage fees, tariffs, excise taxes or other similar obligations on merchandise delivered from foreign countries. As a disruption in the Rockport Group's supply chain may cause harm to its business and impair its restructuring efforts, the Shippers and Warehousemen Order is required to ensure the continued supply of inventory and other goods to the Rockport Group.

Taxes Order

71. The Taxes Order authorizes the Rockport Group to pay certain taxes whether arising prior to, on or after the Petition Date. In the ordinary course of the Rockport Group's operations it collects, withholds and incurs various taxes, including income taxes, sales and use taxes, employment and wage-related taxes, business taxes, property taxes and other taxes.

72. The Taxes Order applies to Canadian taxation authorities, including with respect to sales taxes. The Taxes Order was made on an interim basis and will be subject to a further hearing and final order.

Wages Order

73. The Wages Order authorizes the Rockport Group to, among other things, pay prepetition wages and other amounts owed to its employees and claims of independent contractors, continue all employee benefit programs and to pay all withholding obligations as such obligations are due.

74. The Wages Order authorized Rockport Canada to continue to pay Rockport Canada's employees in the ordinary course. Pursuant to the Wages Order, any amounts owed to Rockport Canada employees, including amounts for vacation pay, expenses, and benefits are expected to be paid in the ordinary course. The Wages Order was made on an interim basis and will be subject to a further hearing and final order.

Utilities Order

75. The Utilities Order approved adequate protection assurance for certain utilities providers, established procedures for resolving claims by utility providers and prohibited utility providers from terminating service solely on the basis the Rockport Group commenced the Chapter 11 Proceedings.

76. The Utilities Order includes certain Canadian utility providers. The Utilities Order was made on an interim basis and will be subject to a further hearing and final order.

Cash Management Order

77. The Cash Management Order authorizes the Rockport Group to continue to operate its existing Cash Management System.

78. Subsequent to the Petition Date, Rockport Canada will continue to transfer funds to the Rockport Group on account of (i) merchandise purchased post-petition from the Rockport Group, as necessary for Rockport Canada's ongoing operations (paid on a COD basis); and (ii) post-petition back office services provided by the Rockport Group (paid in accordance with prior practice, as a mark-up on the cost of Merchandise supplied) (the **"Permitted Rockport Canada Intercompany Transactions'**).

79. Other than the Permitted Rockport Canada Intercompany Transactions, Rockport Canada will not transfer funds to the Rockport Group on account of any prepetition intercompany transaction, unless otherwise ordered by the US Court.

80. The Proposed Information Officer notes that the current cashflows and budget in respect of the Canadian operations (as discussed below) reflect limited, if any, excess funds will be available in Rockport Canada until such time as the sales proceeds from the Stalking Horse Agreement (or higher or otherwise better offers) and/or liquidation sales are available.

Interim DIP Financing Order

81. As at the Petition Date and based on the cash flow projections prepared by the Rockport Group (the **"DIP Cash Flow"**), which are attached as Exhibit "S" to the Kosturos Cdn Affidavit, the Rockport Group lacked sufficient liquidity to maintain normal course operations during the proposed sales process without access to additional financing.

82. In reviewing the DIP Cash Flow for Rockport Canada, the Proposed Information Officer noted the following:

    (a) the DIP Cash Flow projects that Rockport Canada will experience a net cash outflow of approximately CAD$170,000 between the Petition Date and July 14, 2018;

(b) Rockport Canada is projected to make approximately CAD$2.2 million in payments to Rockport US for Permitted Rockport Canada Intercompany Transactions. However, based on the information provided to the Proposed Information Officer, Rockport Canada is projected to receive Merchandise in excess of this amount over the same 9 week period; and

(c) the referenced cash outflow does not take into account professional fees related to these proceedings, all of which have been allocated to the cash flow of the US Debtors.

83. Notwithstanding that the DIP Cash Flow projects that Rockport Canada does not require additional funds to continue operating – assuming the prohibition on sweeps of excess funds in the Canadian Operations Accounts to the US Debtors and permission to continue using post-petition revenue generated from Canadian operations during these proceedings – it is the Proposed Information Officer's view, due to the highly integrated nature of the Rockport Group business and the essential bank-office support functions carried out by Rockport US personnel on behalf of Rockport Canada, it would be extremely difficult for Rockport Canada to continue operations if the Rockport Group did not access additional capital.

84. The Interim DIP Financing Order (which is being sought on an interim basis, and will be subject to a further hearing and final order), should it be granted, among other things, provides the Rockport Group access to:

(a) up to $60 million under a DIP post-petition revolving credit facility (the **"DIP ABL Facility"**) pursuant to a senior secured superpriority DIP credit agreement (the **"DIP ABL Agreement"**) between certain of the Debtors, including Rockport Canada, and CBC (in such capacity the **"DIP ABL Lender"**); and

(b) up to $20 million in new money (the "**DIP Note Facility**" and together with the DIP ABL Facility, the **"DIP Financing"**) under a senior secured post-petition DIP Note Purchase and Security Agreement (the **"DIP Note Agreement"**) between certain Rockport Group entities and the holders of the Prepetition Notes Facility (in such capacity the **"DIP Note Lenders"**).

85. The DIP Financing will provide the working capital necessary for the Rockport Group to continue its business until the conclusion of the proposed sales process. Rockport Canada is, however, only a party to the DIP ABL Agreement. Consistent with the Prepetition Notes Facility, Rockport Canada is not a party to the DIP Note Facility.

86. Similar to the Prepetition ABL Facility, while Rockport Canada is listed as a borrower under the DIP ABL Facility, it has no borrowing availability. Further, the obligations that Rockport Canada will undertake pursuant to the DIP ABL Facility correspond to its prepetition obligations – that is, Rockport Canada is a party to the DIP ABL Agreement and will be jointly and severally liable both as a borrower and as a guarantor of the obligations under that facility and security will be granted over Rockport Canada in such capacity.

87. The DIP ABL Facility contains a "roll-up" provision whereby following the US Court's approval of the Interim DIP Financing Order, the Rockport Group intends to repay obligations owing under the Prepetition ABL Facility as a "creeping roll-up" by applying the collection of accounts receivable and other proceeds from the sale of the collateral in support thereof to satisfy the amounts due under the Prepetition ABL Facility and, in turn, free up borrowing availability under the DIP ABL Facility. Following the US Court's approval of the final DIP Financing Order, the Rockport Group will use the proceeds from the next advance under the DIP ABL Facility to "roll-up" all remaining outstanding amounts due under the Prepetition ABL Facility.

88. As at the Petition Date, the Rockport Group (i) had no availability under the Prepetition ABL Facility; (ii) other than CBC, there are no other registered security interests against Rockport Canada; and (iii) other than the Permitted Rockport Canada Intercompany Transactions, Rockport Canada will not transfer any funds to the Rockport Group on account of any prepetition intercompany transaction. Accordingly, it does not appear that the "roll-up" and security provisions of the DIP ABL Agreement are detrimental to Rockport Canada's creditors.

89. The DIP Note Facility that has been approved on an interim basis by the US Court does not provide for direct availability to Rockport Canada. The Proposed Information Officer notes that the Prepetition Note Facility, which forms a part of the DIP Note Facility, was not secured by Rockport Canada assets, and the Debtors are not seeking to secure the Canadian assets with any charges relating to the DIP Note Facility.

IX. PROPOSED ABL LIABILITY ALLOCATION

90. In preparing for the filing, the Proposed Information Officer was advised that a term and condition of the granting of the DIP Note Facility to the Debtors was the determination of the allocation of amounts outstanding to CBC under the Prepetition ABL Facility as between the US Debtors and Rockport Canada, in order to determine potential available funds from Rockport Canada to support the obligation. The DIP Note Lenders required that an agreement be reached and approved by the US Court, and recognized by the Canadian Court, prior to the return of the final DIP Financing Order, scheduled for June 13, 2018.

91. The Proposed Information Officer was advised of the DIP Note Lenders requirement and participated in discussions with counsel for the DIP Note Lenders, the DIP ABL Lender and the Debtors relating to the manner in which this condition could be met or addressed by the respective Courts. On May 12, 2018, the parties agreed to seek the following paragraph in the Interim DIP Financing Order and Initial Recognition Order relating to this issue:

> the amount of proceeds realized from the sale or liquidation of the ABL Collateral and/or the DIP ABL Collateral of Rockport Canada ULC which shall be paid to the ABL Lenders and/or the DIP ABL Lenders in partial satisfaction of the outstanding ABL Obligations (as determined immediately prior to the Petition Date) and/or DIP ABL Obligations shall be determined and agreed upon among (i) the Debtors, (ii) the ABL Lenders, and (iii) the Secured Noteholders, each acting reasonably (the "Allocation Agreement"), in advance of the hearing in respect of the Final Order (the "Final Order Hearing"). The Allocation

> Agreement shall be placed before the Court for approval as part of the Final Order Hearing and thereafter the Canadian Court for recognition as part of the motion to recognize the Final Order. In the event that the foregoing parties have not reached the Allocation Agreement in advance of the Final Order Hearing, the issue shall be placed before the US Bankruptcy Court at the Final Order Hearing, and thereafter the Final Order shall be placed before the Canadian Court for recognition. Any Allocation Agreement or orders approving same shall be conditional upon and require the repayment in full at or prior to closing in cash of the ABL Obligations and/or DIP ABL Obligations. The granting of this Interim Order shall be without prejudice to future arguments in respect of the Allocation Agreement or any orders approving the same.

92. The Proposed Information Officer understood that discussions would continue between the Debtors, the DIP Note Lenders, and the DIP ABL Lender and any agreement reached between the parties would be disclosed to the other stakeholders and formal approval sought from the US Court and recognition by the Canadian Court.

93. The Proposed Information Officer notes the following term was granted by the US Court relating to the allocation issues:

> No Marshaling: Application of Proceeds. The DIP Agents, the DIP Lenders, and the Prepetition Secured Parties shall not be subject to the equitable doctrine of "marshaling" or any other similar doctrine with respect to any of the DIP Collateral and/or the Prepetition Collateral, as the case may be, and all proceeds shall be received and applied in accordance with the DIP Documents, the Prepetition Financing Documents, and the Prepetition Intercreditor Agreement. Notwithstanding anything to the contrary herein, the amount of proceeds realized from the sale or liquidation of the ABL Collateral (as determined immediately prior to the Petition Date) and/or the DIP ABL Collateral of Rockport Canada ULC which shall be paid to the ABL Lenders and/or the DIP ABL Lenders in partial satisfaction of the outstanding ABL Obligations (as determined immediately prior to the Petition Date) and/or DIP ABL Obligations shall be determined and agreed upon among (i) the Debtors, (ii) the ABL Lenders, and (iii) the Secured Noteholders, each acting reasonably (the "Proposed ABL Liability Allocation"), in advance of the Final Hearing. The Proposed ABL Liability Allocation shall be placed before the Court for approval as part of the Final Hearing and thereafter the Canadian Court for recognition as part of the motion to recognize the Final Order. Any Proposed ABL Liability Allocation or orders approving the same shall be conditional upon and require the repayment in full at or prior to closing of any sale as contemplated by the Sale Motion in cash of the ABL Obligations and/or DIP ABL Obligations. The granting of this Interim Order shall be without prejudice to future arguments in respect of the Proposed ABL Liability Allocation or any orders approving the same.

94. In reviewing the Kostorus US Affidavit (at paras 101-102), the Proposed Information Officer learned that the Debtors, the Prepetition Noteholders and CBC had reached a tentative agreement (the "**Proposed ABL Liability Allocation**"), which appears to have been framed as a share of obligations under the Prepetition ABL Facility, versus the allocation of proceeds contemplated above. The Proposed Information Officer was not a party to those discussions and is not in a position at this time to comment on the terms thereof. The Proposed Information Officer will report further on this matter in return of the motion seeking recognition of the final DIP Financing Order and the US Court's approval of the Proposed ABL Liability Allocation, when and if obtained.

IX. PROPOSED CHARGES

95. Pursuant to the proposed Supplemental Order, Rockport Canada is seeking an Administrative Charge and a DIP Lenders' Charge.

Administration Charge

96. The draft Supplemental Order contemplates an Administration Charge in respect of the fees and disbursements of the Information Officer and its counsel in an amount not to exceed CAD$300,000. The Administration Charge is required to protect the Information Officer and its counsel in the event that their reasonable fees and expenses are unpaid. The Proposed Information Officer considers the amount of the proposed Administration Charge to be reasonable and appropriate in the circumstances. The Administration Charge would rank in priority to any other security interests, trust, liens, charges and encumbrances on the Debtors' property in Canada, including the DIP Lenders' Charge.

DIP Lenders' Charge

97. As noted above, the draft Supplemental Order contemplates the granting of the DIP Lenders' Charge to secure amounts owing under the proposed DIP ABL Facility. The DIP Lenders' Charge would rank in priority to any other security interests, trust, liens, charges and encumbrances on Rockport Canada's assets except for the Administration Charge.

X. PROPOSED INITIAL ACTIVITIES OF THE INFORMATION OFFICER

98. The draft Supplemental Order provides that following its appointment, the initial activities of the Information Officer will include, *inter alia*:

(a) publishing a notice of the Chapter 11 Proceedings and the CCAA Recognition Proceedings in the Globe and Mail, National Edition, as soon as practical following date of the Supplemental Order, if granted, once a week for two consecutive weeks (as required by the Foreign Representative pursuant to subsection 53(b) of the CCAA);

(b) providing such assistance to the Foreign Representative in the performance of its duties as the Foreign Representative may reasonably request;

(c) reporting to the Canadian Court with respect to the status of these proceedings and the Chapter 11 Proceedings at such times and intervals as the Information Officer deems appropriate; which reports may include information relating to the property and the business of the Debtors or such other matters as may be relevant to these proceedings and the Proposed ABL Liability Allocation; and

(d) establishing a website at http://www.richter.ca/en/folder/insolvency-cases/r/rockport-canada to make available copies of the Orders granted in the CCAA Recognition Proceedings, reports of the Information Officer, motion materials, and other materials as the Canadian Court may order or the Information Officer deems appropriate.

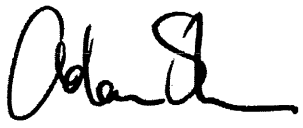
XI. PROPOSED INFORMATION OFFICER'S RECOMMENDATIONS

99. The Proposed Information Officer is satisfied that the terms of the Initial Recognition Order relating to its proposed role as Information Officer are fair and reasonable, and consistent with the terms of appointments of information officers in other recognition proceedings under the CCAA.

100. Accordingly, the Proposed Information Officer respectfully recommends that the Canadian Court grant the relief requested by the Debtors in the Initial Recognition Order and the Supplemental Order.

All of which is respectfully submitted on this 16th day of May, 2018.

Richter Advisory Group Inc.
in its capacity as Proposed Information Officer of
Rockport Canada ULC *et al*
and not in its personal capacity



Adam Sherman, MBA, CIRP, LIT

Pritesh Patel, MBA, CFA, CIRP, LIT

CERTIFICATE OF SERVICE

I, Chadd P. Fitzgerald, certify that I am not less than 18 years of age, and that on June 8, 2018, a copy of the foregoing document was electronically filed by CM/ECF, and I caused copies to be served upon the following parties as set forth below:

By First Class Mail
The Rockport Company, LLC
Attn: Paul Kosturos
1220 Washington Street
West Newton, MA 02465

By Hand Delivery
Mark D. Collins, Esquire
Richards, Layton & Finger, P.A.
920 N. King Street
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By First Class Mail
Donald E. Rothman, Esquire
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By Hand Delivery
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By Hand Delivery
Brya M. Keilson, Esquire
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Wilmington, DE 19801

Under penalty of perjury, I declare that the foregoing is true and correct.

Dated: June 8, 2018

/s/ Chadd P. Fitzgerald
Chadd P. Fitzgerald

Tab K

THIS IS EXHIBIT "K" TO THE AFFIDAVIT

OF PAUL KOSTUROS SWORN BEFORE ME

ON THIS 19TH DAY OF JULY, 2018

Lesley A. Morris

A Notary Public in and for the State of Delaware

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:	)	Chapter 11
THE ROCKPORT COMPANY, LLC, *et al.*,	)	Case No. 18-11145 (LSS)
Debtors.[1]	)	(Jointly Administered)
	)	**Re: Docket Nos. 14, 15, 60, 76, 165, 166 & 167**

DEBTORS' OMNIBUS REPLY IN SUPPORT OF THEIR MOTION FOR POSTPETITION FINANCING

The Rockport Company, LLC ("**Rockport**") and its debtor affiliates (collectively, the "**Debtors**") reply as follows to (1) the objection filed by the Richter Advisory Group Inc., in its capacity as Canadian Information Officer (the "**Information Officer**") [Docket No. 165]; and (2) the objection filed by the Official Committee of Unsecured Creditors (the "**Committee**") [Docket Nos. 166 & 167]. In support of this reply, the Debtors incorporate the First Day Declaration [Docket No. 14] and the declaration of Paul Kosturos (the "**Kosturos Dec.**"), filed contemporaneously herewith.[2]

I. REPLY TO INFORMATION OFFICER OBJECTION [DOCKET NO. 165]

Introduction

1. There are two "allocation" issues in this case, one of which is at issue today and one of which is not. First, the Debtors must allocate the secured claim under the Prepetition

[1] The debtors and debtors in possession in these cases and the last four digits of their respective Employer Identification Numbers are: Rockport Blocker, LLC (5097), The Rockport Group Holdings, LLC (3025), TRG 1-P Holdings, LLC (4756), TRG Intermediate Holdings, LLC (8931), TRG Class D, LLC (4757), The Rockport Group, LLC (5559), The Rockport Company, LLC (5456), Drydock Footwear, LLC (7708), DD Management Services LLC (8274), and Rockport Canada ULC (3548). The debtors' mailing address is 1220 Washington Street, West Newton, Massachusetts 02465.

[2] Capitalized terms not defined in this reply have the same meaning as in the DIP Motion or the First Day Declaration, as applicable.

ABL Facility, a revolving loan that Rockport used to, among other things, purchase inventory for its business. Both the U.S. Debtors and Rockport Canada are jointly and severally liable for the entire amount of that debt, meaning that the lenders (the "**ABL Lenders**") are legally entitled to recover in full from the U.S. Debtors alone, Rockport Canada alone, or any combination of the two. As a result, the Debtors need to allocate this secured claim between the U.S. and Canada, to ensure that each estate pays its fair share and does not overpay (or underpay) to the detriment (or windfall) of the other estate's creditors. As fiduciaries of both these estates' creditors, the Debtors have proposed a method that is objectively fair to each estate.

2. This "debt allocation" question needs to be decided in connection with DIP financing. Subject to the resolution of the "debt allocation" question, the DIP Note Lenders have agreed to continue to make new money available to the Debtors. They are the "fulcrum" creditor class in the United States (their claim likely is under-secured), so if the U.S. Debtors overpay their fair share of the ABL debt, then the DIP Note Lenders will be harmed by recovering less on their own secured claim from the U.S. Debtors. Because of this harm, the DIP Note Lenders want to know, before making more new money available, that Rockport Canada will pay its fair share of the ABL debt.

3. The second "allocation" issue relates to sale proceeds. After the Debtors sell their assets, the Debtors will need to allocate the proceeds of that sale among their estates. As the Court is aware, the auction has not yet occurred, the Debtors do not know what the ultimate sale consideration will be, and therefore this "sale proceed allocation" question is not ripe.

4. Over the past month, the Debtors have communicated regularly with the Information Officer and its counsel, including by responding to detailed information requests. During this time, the Information Officer never took the position that the "debt allocation"

method proposed by the Debtors (*i.e.*, using the net borrowing base calculation to determine percentage liability) was inherently unfair or inequitable.[3] Instead, the Information Officer stated that it would not agree on debt allocation without first agreeing on sale proceeds allocation. The reason, as it acknowledges in its objection, is to ensure that Rockport Canada will receive enough sale proceeds to exceed its allocated share of the ABL debt. In other words, the Information Officer objects to allocating the ABL debt now because it wants a guarantee that unsecured creditors of Rockport Canada—an entity that operated at a loss and relied on support from Rockport to stay in business (as evidenced by the large intercompany payable owed by Rockport Canada to Rockport)—will be "in the money."

5. This result-oriented approach is not a valid reason to delay allocating the ABL debt. Fairly allocating the ABL secured claim among the U.S. Debtors and Rockport Canada requires comparing each entity's collateral values that the ABL Lenders relied upon in making the loans to the Debtors. These collateral values are what they are; they are not affected by incoming sale proceeds. Because the amount of incoming sales proceeds does not change the size of the secured claim at each entity, the Debtors do not need to allocate sale proceeds now—that is, unless the goal of the exercise is to ensure that sale proceeds exceed the allocated secured debt for a particular entity.

6. To illustrate, assume hypothetically that (a) Rockport Canada was allocated its fair share of the ABL debt (say, $10 million), and (b) the proceeds from the sale of the Debtors'

[3] The allocation method is described in paragraphs 24–27 of the DIP Motion and Exhibit D thereto (also attached as Exhibit 3 to this reply). In sum, the Debtors propose to allocate based on the net asset values set forth in the most recent prepetition borrowing base certificate under the Prepetition ABL Facility. The borrowing base certificate contains the net asset values of the collateral belonging to the U.S. Debtors, on the one hand, and Rockport Canada, on the other hand. These values reflect what the ABL Lenders were willing to lend against, and represent what proportion of a recovery the ABL Lenders could expect from each entity. Allocating based on the proportion of collateral available at each entity therefore is methodologically sound because it reflects what portion of the secured claim the ABL Lenders expected could be collected from the U.S. and Canada, respectively. As set forth on Exhibit 3, Rockport Canada's proportion of the borrowing base equates to 18.4%, and thus it should be allocated 18.4% of the ABL secured claim.

assets attributable to Rockport Canada are insufficient to cover that amount. Is that a valid reason to adjust an otherwise proper allocation of secured debt to Rockport Canada? No, and this demonstrates why "debt allocation" and "sale proceed allocation" are separate issues. They are related only in the mathematical sense that "sale allocation" minus "debt allocation" equals the amount that will be available to unsecured creditors of Rockport Canada, but neither allocation affects the calculation of the other. The only reason to consider both together is to assess whether unsecured creditors can expect a distribution, but that too would not change the size of the secured claim at each entity. For this reason, the Information Officer's suggestion that the Debtors have not considered all available information—information relating to sale allocation and unsecured creditor recoveries—is inaccurate, as this information only is relevant to the sale proceeds allocation issue.

7. In legal terms, the Information Officer argues that the proposed debt allocation might "indirectly encumber" Canadian assets. The Information Officer correctly observes that every dollar of ABL debt allocated to Canada means one less dollar of debt allocated to the U.S. Debtors, a result that "benefits" the DIP Note Lenders who are the fulcrum secured creditors in the United States. But the flip side also is true: every dollar of ABL debt allocated to the U.S. Debtors "benefits" Rockport Canada's creditors and "harms" the U.S. Debtors' creditors, by making more money available to unsecured creditors in Canada and less to those in the United States. A fair allocation of this debt is what will prevent either estate from "indirectly encumbering" the other.

8. The Debtors' proposed allocation method accomplishes this because it is reasonable and fair. The method starts with the net borrowing base values that the ABL Lenders relied upon in making funds available and then allocates based on the proportion of such values

at each entity. The "alternative" methods that the Information Officer suggests for the Debtors to consider (such as allocating $0 secured debt to Canada or spreading the secured debt to foreign Rockport entities that are not liable for the debt) are facially unreasonable. And notably, none of these suggested alternatives would require a determination of sale allocation either.

9. The Debtors acknowledge that their creditors want to know as soon as possible what they might recover at the end of the case. But that depends on a future sale, and is an issue for another day. In the meantime, Rockport Canada's estate is "ring-fenced" and will not have any of its assets distributed to the DIP Note Lenders. All parties' rights are reserved on sale allocation, and when those proceeds ultimately are allocated, it will be through a fair and open court process in the United States and a recognition process in Canada that will involve all interested constituencies. Hypothetically, if that fair and open process concludes that Rockport Canada lacks the proceeds to pay its fair share of the ABL debt, then that is not an inherently "inequitable" result as the Information Officer claims; it is the unfortunate reality that in bankruptcy sometimes unsecured creditors are out of the money because higher priority claims cannot be paid in full.

Argument

A. Rockport Canada pledged substantially all of its assets as a primary obligor on the ABL debt, and is jointly and severally liable with the U.S. Debtors.

10. In 2015, certain Debtors entered into an asset-based revolving facility, under which they could borrow up to $60 million (the "**Prepetition ABL Facility**") (copy of the Prepetition ABL Credit Agreement is attached as Exhibit 1). The borrowers under the facility were Rockport, The Rockport Group, LLC, and Rockport Canada. *See* Exhibit 1, § 1.01 at p.6 & Preamble (defining "borrowers"). Each of these borrowers was jointly and severally liable for the entire revolving facility. *See id.* § 2.10 ("The Borrowers hereby unconditionally promise to

pay (on a joint and several basis) (i) to the Administrative Agent for the account of each Lender the then unpaid principle amount of each Revolving Loan . . . .").

11. In addition to being primarily liable as borrowers, these entities also were secondarily liable as guarantors. *Id.* § 10.01. In addition, certain of Rockport's United States subsidiaries, as well as Rockport Canada's parent holding company, were guarantors. Kosturos Dec. ¶ 6. Other than Rockport Canada and its parent, none of Rockport's foreign subsidiaries were parties to the Prepetition ABL Facility or pledged their assets to support that debt. *Id.*

12. As a result, the Prepetition ABL Facility is secured by the assets of the U.S. and Canadian entities only. *Id.* To secure the loan, each of the borrowers granted first priority liens over certain classes of assets, primarily inventory and accounts receivable. *Id.*; DIP Motion ¶ 10. Because Rockport Canada does not have significant assets beyond its inventory and accounts receivable, the Prepetition ABL Facility effectively is secured by substantially all of Rockport Canada's assets. Kosturos Dec. ¶ 6.

B. The Prepetition ABL Lenders determined loan availability based on the value of the pledged collateral.

13. Although the Prepetition ABL Facility provided for a commitment of "up to" $60 million, actual availability fluctuated based on the value of the collateral available to support the loan. Each month, Rockport would prepare and submit a "borrowing base certificate" listing the collateral available to support the loan. A copy of the most recent borrowing base certificate prior to the Petition Date is attached as Exhibit 2. The certificate sets forth accounts receivable and inventory collateral values for Rockport's U.S. enterprise, and separately for Rockport Canada. It then deducts hypothetical liquidation costs and non-eligible amounts to reach a net value of the collateral (the value of the collateral in the hands of the lenders after a foreclosure and taking into account additional risks). *Id.*; Kosturos Dec. ¶ 7. The borrowing base certificate

then takes that value or $60 million, whichever is less, and subtracts the current loan balance to calculate the revolver availability. *See* Exhibit 2 at p. 3, rows 5, 6 & 9.

14. As of the Petition Date, the Prepetition ABL Facility's outstanding balance was $56,975,436.95. Kosturos Dec. ¶ 6.

C. Rockport drew on the Prepetition ABL Facility for the benefit of Rockport Canada.

15. Although three of the Debtors were borrowers, it was the Debtors' practice for only one borrower, Rockport, to draw on the revolving facility. Rockport would then use these funds for the benefit of the entire enterprise, including Rockport Canada. Kosturos Dec. ¶¶ 11–12.

16. In particular, Rockport would use drawn funds to buy inventory from vendors. *Id.* Rockport would then sell this inventory to Rockport Canada on the same terms that Rockport itself received from the vendor. *Id.* After receiving payment from Rockport Canada, the funds would be swept by the ABL Lenders to repay the loan. *Id.* Rockport also would charge an 8.25% surplus for general product and sourcing support. *Id.* Rockport Canada had no management or corporate operations of its own, and was managed and supported by U.S. corporate employees. *Id.*

17. In this way, the parties achieved the same result as if Canada had borrowed funds directly, bought its own inventory (and paid for its own product and sourcing support), and then used inventory proceeds to directly repay its borrowings. In either case, the availability of ABL proceeds allows Rockport Canada to obtain inventory and therefore generate revenue. Without the Prepetition ABL Facility, Rockport Canada would have no inventory to sell.

18. This system also allowed Rockport Canada to obtain more than it otherwise could had it drawn directly from the Prepetition ABL Facility. Standing alone, Rockport Canada operated at a loss. Kosturos Dec. ¶ 14. In 2016, 2017, and the first quarter of 2018, Rockport

Canada had negative net income. *Id.* Rockport Canada relied on support from Rockport to operate. Specifically, as of the Petition Date, Rockport Canada had not repaid Rockport for approximately $18.2 million of inventory that was obtained using ABL facility proceeds (including the 8.25% charge). *Id.* ¶¶ 12, 15. Of this amount, approximately 80% was overdue, and approximately 40% was overdue by more than 120 days, demonstrating that Rockport Canada on a standalone basis was having difficulty generating cash flow to sustain its inventory purchases. *Id.* ¶ 15. The amount of inventory that Rockport Canada did not pay for as of the Petition Date exceeds its most recent borrowing base collateral value of $11.4 million.[4] As a result, the collateral of the U.S. Debtors under the ABL facility helped support Rockport Canada's continued operations. Thus, Rockport Canada was a "net user" and beneficiary of the ABL facility.

D. Allocating the ABL debt liability using the net collateral values in the most recent prepetition borrowing base certificate is fair and equitable.

19. Because both the U.S. Debtors and Rockport Canada are jointly and severally liable for the total amount of the revolving debt ($56.9 million), the ABL lenders may recover from any or all of those parties in full. The Debtors therefore need a principled method to allocate how much secured debt each estate will be responsible for, to prevent one estate from paying too much (to the detriment of its other creditors), and the other estate from paying too little (to the windfall of its other creditors).

20. This allocation needs to happen at the same time as final approval of postpetition financing. The DIP Note Lenders have funded the Debtors with $10 million in new money, and will make up to another $10 million available upon final approval. Approval of the proposed

[4] The borrowing base certificate attached as Exhibit 2 lists Canadian inventory in Canadian dollars. The summary attached hereto as Exhibit 3 (which also was attached to the DIP Motion as Exhibit D) sets forth the amounts in U.S. Dollars.

debt allocation is a condition precedent to continued borrowings under the Noteholder DIP Facility.

21. In addition, it is reasonable for the DIP Note Lenders to require a fair allocation of ABL debt before putting in more new money, because any over-allocation to the U.S. Debtors would dilute the security available to the DIP Note Lenders. The Noteholders' liens attach to U.S. assets only, and their claim likely is under-secured. As a result, every dollar that the U.S. Debtors pay instead of Rockport Canada on the Prepetition ABL Facility is one less dollar of security available to support the DIP Note Lenders claim, including new money. The DIP Note Lenders have a rational incentive to want to know—before funding the Debtors with more new money—that Rockport Canada will pay its fair share debt under the Prepetition ABL Facility and will not unfairly dilute the collateral available to support the postpetition financing.

22. In arriving at the proposed allocation method, the Debtors were guided by two principles. First, they are fiduciaries of both the U.S. and Canadian estates, and therefore must consider the interests of both entities. Second, the method must be fair and equitable to both estates.

23. With these principles in mind, the Debtors concluded that the fairest, most equitable, and methodologically soundest approach is to allocate the debt based on the net collateral values set forth in the borrowing base certificate. The borrowing base certificate reflects the value of the collateral that the ABL Lenders were willing to lend against. *See* Exhibits 2 (borrowing base certificate) and 3 (summary). In a hypothetical foreclosure, it represents the proportion of a recovery that the ABL Lenders expected they could obtain from each entity's collateral. Allocating the ABL debt based on the proportion of collateral available

at each entity to satisfy that debt is a fair and sound approach, as the ABL Lenders reasonably would look to that collateral at each entity as a source of recovery for their secured claim.

24. Exhibit 3 summarizes the values of the most recent prepetition borrowing base certificate, and then calculates the proportion of collateral value attributable to the U.S. and Canada. (A copy of the exhibit also was attached to the original DIP motion as Exhibit D). As set forth in the exhibit, the net value of collateral available in the U.S. and Canada, after applying the adjustments required by the ABL lenders, is $50,547,200 and $11,403,100, respectively.[5] Converting these numbers to percentages, the ABL lenders loaned funds based on 18.4% of the collateral being attributed to Rockport Canada, and the other 81.6% being available in the U.S. *See* Exhibit 3; Kosturos Dec. ¶ 8. As a result, Rockport Canada should be liable for 18.4% of the outstanding loan balance for which it is jointly liable.[6]

E. The Information Officer's objection should be overruled because it adopts an improper "result-oriented" approach to allocation and raises no legitimate objection to the Debtors' proposed method.

25. The Information Officer wants more information about unsecured creditor recoveries, which ultimately will be determined by the amount of sale proceeds that the Debtors achieve in a future sale as well as by how those proceeds are allocated to the Debtors. This information does not yet exist. And it is not relevant to fixing the amount of secured claims at each Debtor.

[5] The adjustments reflect (1) liquidation costs, (2) discounts for aged receivables, damaged inventory, etc., and (3) an additional deduction to reflect other risks in foreclosing and liquidating collateral.

[6] Exhibit 3 lists the outstanding loan balance as $53.45 million, but notes that this balance would increase if a letter of credit posted under the facility as of the Petition Date was drawn. *See* Exhibit 3, n. 1. That letter of credit has been drawn, and thus the total loan balance is $56,975,436.95.

i. The information that the Information Officer says is incomplete relates to sale allocation and creditor recoveries.

26. The Information Officer argues that to properly allocate the ABL debt, the Debtors need to know (a) the "potential pool of Canadian creditors" and (b) the "future allocation of [sale] proceeds." Objection ¶¶ 31 & 32. Yet as the Information Officer acknowledges, the potential size of Canadian claims is relevant to determining how much of a recovery Canadian unsecured creditors can expect after a sale, not the threshold question of how much secured debt is fairly allocated to Rockport Canada. *See id.* ¶ 31 ("The Debtors … did not fully consider the total estimated claims of Canadian creditors, *and, therefore, any impact the Proposed ABL Liability Allocation might have on distributions to Canadian creditors.*") (emphasis added). But the impact to Rockport Canada's unsecured creditors is not an appropriate mechanism to allocate debt among the various Debtors, because that method inevitably would unfairly benefit one estate and the expense of the other.

27. Likewise, although the Information Officer claims that debt allocation "cannot be determined in a vacuum" from sale proceeds allocation (Docket No. 165 ¶ 32), this is true only if the sale proceeds allocation somehow affects the calculation of how to allocate the ABL secured claim. It does not, unless one follows a result-oriented approach under which the proper amount of Rockport Canada's secured claim should be adjusted based on the amount of incoming sale proceeds.[7]

[7] The Information Officer also implies that prior to the Petition Date, the parties had agreed to resolve *all* allocation issues through the Final DIP Order, and that immediately before the Petition Date, the Debtors or Noteholders unilaterally changed positions. Docket No. 165 ¶¶ 24–25. This is not the case; the Debtors always understood that the parties would try to reach agreement on ABL debt allocation only in the Final DIP Order. The proposed language that the parties circulated and discussed, and that eventually became part of the proposed order, addressed ABL debt allocation only. The Interim DIP Order provision that the Information Officer cites as evidence of an agreement to allocate sale proceeds in fact relates only to an allocation of ABL debt. *See* Docket No. ¶ 23, citing Interim DIP Order ¶ 40.

ii. The proposed debt allocation does not "encumber" previously unencumbered Canadian assets.

28. The Information Officer "objects to any order that has the effect of an encumbrance, direct or indirect, on previously unencumbered assets or Rockport Canada." Docket No. 165 ¶ 34. That will not happen here. Rockport Canada's assets, which primarily consist of inventory and accounts receivable, are *already* encumbered by the Prepetition ABL Facility debt. In this critical way, this case is not analogous to *Payless Shoes*, where the Canadian debtor was *not* liable for the prepetition ABL debt. Docket No. 165 ¶ 34. In *Payless*, the Canadian court did not recognize a DIP order approving a postpetition ABL facility that sought to encumber previously unencumbered Canadian assets. *Id.* By contrast, here Rockport Canada pledged its assets as security for the entire amount of the Prepetition ABL Facility several years before the Petition Date, and therefore allocating to Rockport Canada its fair share of this jointly secured debt does not encumber new assets.

29. Nor is there an "indirect" encumbering of Canadian assets. The Debtors' proposed allocation fairly apportions the debt between the Debtors in a principled and balanced way, and therefore does not over-allocate to Rockport Canada.

30. In paragraph 37 of its objection, the Information Officer lists why it believes the DIP Note Lenders might be trying to indirectly encumber Rockport Canada's assets. But the reasons do not stand up to scrutiny.

a. First, the Information Officer argues that allocating *any* share of secured debt to Rockport Canada is double-counting, because Rockport Canada has failed to repay Rockport for $18.2 million of inventory, and thus an intercompany claim already exists for that inventory. Docket No. 165, ¶ 37(a). All intercompany claim issues are reserved for another day in connection with plan confirmation; to the extent that there is any double-counting, it will be

addressed then. But Rockport Canada's inability to repay for inventory procured under Prepetition ABL Facility, and reliance on Rockport for additional credit, is not a valid or fair reason to assign it a 0% share of the ABL debt for which it is jointly liable, and for which its assets are pledged as security. If there is an inconsistency between Rockport Canada's allocated share of the ABL secured debt and the unsecured intercompany claim, it is the intercompany claim that should give way.

b. Second, the Information Officer suggests that because Rockport Canada did not directly draw on the ABL facility, it should not be liable for 18.4% of the secured claim. Docket No. 165, ¶ 37(b). As set forth above, Rockport Canada is jointly and severally liable for 100% of the outstanding debt, regardless of whether it drew anything directly or not. Because the ABL Lenders can look to Rockport Canada's assets to repay the entire debt, allocating 0% to Rockport Canada is not reasonable. In addition, although not legally relevant, Rockport Canada could not have operated its business without the Prepetition ABL Facility, so this is not a situation where Rockport Canada's assets were pledged for an unrelated debt that provided nothing of value. *See supra* ¶¶ 16-18.

c. Third, the Information Officer argues that the Debtors did not consider the actual proceeds that would be generated by a sale or liquidation of Canadian assets or the other claims that would exist against those proceeds. Docket No. 165, ¶ 37(c). But as noted above, the proceeds attributable to Rockport Canada, and the size of the creditor pool, do not affect the calculation of the secured claim attributable to Rockport Canada. *See supra* ¶¶ 26-27.

d. Fourth, the Information Officer states that "there are alternative methods that could have been used . . . to frame the initial allocation of debt . . . ." Docket No. 165, ¶ 37(d). But the four methods that it suggests are far less reasonable than the one proposed by the

Debtors. The first of these is to allocate $0 secured debt to Rockport Canada because it did not directly draw on the loan. As explained above, this disregards that Rockport Canada is jointly and severally liable for the entire debt, and benefitted from Rockport's draws of the loan (without which Rockport Canada could not have operated its business). *Supra* ¶¶ 10, 16-18. Allocating $0 secured debt to Rockport Canada therefore is not a reasonable allocation. The Information Officer's second proposed method is likewise unreasonable. It proposes to allocate debt based on "a comparison of the Canadian estate's revenue v. global revenues." Docket No. 165, ¶ 37(d). It is unclear why revenue is an appropriate basis to allocate debt, but in any event, Rockport's global subsidiaries (the foreign entities other than U.S. and Canada) are not parties to, or liable for, the Prepetition ABL Facility. So allocating the ABL debt based on Canada's proportion of global revenues is not a sound method, because it includes entities that have no liability on the ABL debt. Third, the Information Officer proposes to allocate based on "estimated liquidation valuations." The collateral values in the borrowing base certificates are based on estimated liquidation values derived from an appraisal performed by an outside party for the ABL Lenders, so the Debtors' method already encompasses this approach. Fourth, the Information Officer suggests allocating based on the proportion of Canadian assets to global assets. But because global assets are not collateral for the loan, this also would be inappropriate. Allocating based on the net collateral value of the entities that are *liable* for the loan, and upon which the lenders can recover, is the most reasonable method.

e. Fifth, the Information Officer argues that leaving sale allocation to a future date "perpetuates the ability to employ calculations that are disproportionately unfavorable to the Canadian creditors." Docket No. 165, ¶ 37(e). But this ignores that an allocation of sale proceeds is not something that the DIP Note Lenders will unilaterally impose; any allocation

would have to be approved by this Court and recognized by the Canadian Court after a full and open process or by agreement of the parties, ensuring a fair result to all parties.

f. Sixth, the Information Officer notes that the Debtors have not yet proposed a method for allocating bankruptcy and sale costs among the various estates for the purpose of allocating sale proceeds. Docket No. 165, ¶ 37(f). Because this relates to sale allocation and not the independent question of debt allocation, it does not support the Information Officer's argument that the proposed debt allocation treats Rockport Canada unfairly.

iii. A fair allocation of debt would mean that Rockport Canada has no right of subrogation, because it will not have paid a disproportionate share.

31. Finally, the Information Officer objects to debt allocation on the grounds that it is unclear what "subrogation rights" Rockport Canada might hold against the U.S. Debtors. Docket No. 165 ¶ 33.[8] But this analysis of "subrogation rights" does not affect how to allocate the ABL debt; it relates to whether Canadian unsecured creditors might hold a claim against the U.S. Debtors for paying more than their fair share of secured debt. This information therefore only is relevant to debt allocation if one adopts the result-oriented method by which the amount of incoming proceeds will dictate the allocable share of debt.

32. In any event, Rockport Canada would hold no right of subrogation or contribution against the U.S. Debtors because the very act of allocating the debt will ensure each entity pays no more than its proportionate share. The right of "subrogation" is an equitable right that arises where one party pays the debt of another who is primarily liable for the debt, and who in equity ought to have paid. *See In re Russell*, 101 B.R. 62, 64 (Bankr. W.D. Ark. 1989). Under Section

[8] The Debtors offered to share their analysis of this issue with the Information Officer in early June on a confidential basis, but the Information Officer did not respond to the Debtors' offer.

509 of the Bankruptcy Code, parties that are jointly and severally liable as primary obligors for a debt may not invoke the doctrine of subrogation against each other. *See In re Yeargin*, 116 B.R. 621, 622 (Bankr. M.D. Tenn. 1990) (Section 509 of the Bankruptcy Code "codifies the rule that subrogation is not available to a party who satisfies an obligation for which he is primarily liable"); *Fibreboard Corp. v. Celotex Corp. (In re Celotex Corp.)*, 472 F.3d 1318, 1321, 1322 (11th Cir. 2006) (a party that was jointly and severally liable for payment of a judgment could not invoke subrogation against its co-debtor that also was jointly and severally liable for the judgment; "Every court that has expressly applied § 509(b)(2) has held that it excludes those who are primarily liable for the debt from subrogation because they received consideration for paying the debt.").

33. Rockport Canada is not merely a guarantor; it has primary liability for the loan. *See* Exhibit 1 (Prepetition ABL Credit Agreement), § 2.10 ("The Borrowers," which includes Rockport Canada, "hereby unconditionally promise to pay (on a joint and several basis) … the then unpaid principle amount of each Revolving Loan . . . ."). As a result, subrogation is not an available remedy.

34. Instead, Rockport Canada would potentially hold a right of "contribution," but only to the extent that it pays more than its proportionate share of the debt. "Where one of several joint debtors pays the debt, his remedy against the others is confined to a claim for contribution . . . ." *In re Schuler*, 354 B.R. 37, 40, 41 (Bankr. W.D.N.Y. 2006) (holding that party that was jointly and severally liable for a tax debt "enjoys no right to subrogation, but may recover only contribution from the bankruptcy estate"); *see also Brown v. Rust (In re Rust)*, 510 B.R. 562, 568 (Bankr. E.D. Ky. 2014) ("The type of action a coborrower has against the borrower is a claim for contribution that is not based on the original debt."); *In re Spina*, 416

B.R. 92, 99 (Bankr. E.D.N.Y. 2009) ("Under the Bankruptcy Code, because spouses have joint and several liability for the taxes due under joint returns, neither spouse has an allowable claim for subrogation against the other for taxes paid, but may assert a contribution claim for one-half of the sum paid to the taxing authorities.").

35. Thus, the very act of allocating the ABL debt will eliminate any potential subrogation or contribution claim, as by definition Rockport will have paid its fair share of the debt and no more.

Conclusion

36. While it is understandable that the Information Officer wants to know how Rockport Canada's unsecured creditors will fare in this bankruptcy case, that is not a proper reason to delay fixing the ABL secured claims among the liable Debtors, which is a condition precedent to further new money borrowings under the DIP Note Facility. Allocation affects the security of the DIP Note Lenders, and delaying an allocation would frustrate their reasonable expectations in making new money loans available to the Debtors.

II. REPLY TO COMMITTEE OBJECTION [DOCKET NOS. 166 & 167]

37. Final approval of the Debtors' two DIP Facilities is absolutely critical to the success of these Chapter 11 Cases. Simply put, the Debtors need access to both the DIP ABL Facility and the new money DIP Note Facility to maintain their going concern operations and to fully fund these Chapter 11 Cases. In return for providing these critical funds, the DIP Lenders are entitled to charge reasonable fees and obtain customary DIP loan protections, including liens on unencumbered property, superpriority administrative claims, and other standard forms of adequate protection authorized by the Bankruptcy Code. And that is certainly true here where the Debtors are attempting to consummate a sale transaction that likely will pay a substantial

portion of the Debtors' prepetition trade claims in full, continue the employment of a large share of the Debtors' corporate employees, cause the assumption of a large number of executory contracts, and provide going concern recoveries to the Debtors' estates. In addition, following receipt of the Committee's objection and following discussions with Committee's counsel and Debtors' counsel, the DIP Lenders have agreed to a number of favorable changes to the DIP Facilities, including:

- limiting the roll-up of Prepetition Notes Obligations of any future borrowings to an amount equal to such new money actually lent to the Debtors following entry of the Final Order (*i.e.*, a dollar-for-dollar roll-up of actual advances rather than the proposed two-for-one roll-up of $20 million upon entry of the Final Order);
- the elimination of liens and superpriority administrative claims on avoidance actions and commercial tort claims, among other changes;
- an increased investigation budget, totaling $100,000.00; and
- increased professional fees up to $400,000.00 for the Committee

A. The DIP Facilities are the product of arms'-length negotiations and a reasonable exercise of the Debtors' business judgment.

38. A court normally defers to a debtor's business judgment when determining whether to approve postpetition financing. *See In re Los Angeles Dodgers LLC*, 457 B.R. 308, 313 (Bankr. D. Del. 2011). A court will only disturb the debtor's business judgment with respect to postpetition financing under extraordinary circumstances:

> Under this formulation, the business judgment rule governs unless the opposing party can show one of four elements: (1) the directors did not in fact make a decision, (2) the directors' decision was uninformed; (3) the directors were not disinterested or independent; or (4) the directors were grossly negligent.

Id. The Committee has not shown—and could not show—that any of these exceptions apply to the Debtors' circumstances.

39. As stated in the First Day Declaration, the Debtors contacted a number of traditional and non-traditional lenders with experience providing DIP financing, none of which would provide financing to the Debtors on a junior lien or unsecured basis. First Day Dec. ¶ 105. Additionally, financing on a priming basis simply was not achievable. *See id.* Consequently, the Debtors focused their energies on obtaining DIP financing from the Prepetition Secured Parties. *See id.* at ¶ 106. The Debtors' Independent Directors, after being presented with the terms of the DIP Facilities, and upon advice of the Debtors' advisors, determined that entry into DIP Facilities would be in the best interests of the Debtors' estates and enable the Debtors to fund their operations and the associated expenses of these Chapter 11 Cases, and provide them with sufficient time to locate the highest and best price for their business. *See id.* at ¶¶ 98, 104–06.

40. Every debtor-in-possession financing agreement has covenants and provisions meant to protect lenders and restrain borrowers—these loan facilities included. Significantly, the Debtors have analyzed all of the material terms of the DIP Facilities and believe that such terms are reasonable and that they can comply with all of those terms. So while the Committee suggests that the DIP Facilities unfairly benefit the DIP Lenders, the reality is that they consist of market provisions designed to protect the DIP Lenders' right to repayment while providing the Debtors an adequate opportunity to maximize the value of their estates.

B. The business terms of the DIP Facilities are reasonable.

41. The Committee's objection advances a parochial dream-list of concessions the Committee wishes the Debtors had wrung from the DIP Lenders. No business justification exists for why the Court should impose different terms on the Debtors and the DIP Lenders when the terms agreed to are market, appropriate, and routinely approved by courts in this District. Absent

a failure of business judgment, the Committee's efforts to rewrite each term of the DIP Facilities is inappropriate. As the court in *In re Ellingsen MacLean Oil Co.* noted:

> Some of the terms of the bargain reached between debtor and creditor may reach beyond the usual terms of a loan agreement. However, such terms are perfectly normal considering the 'unusual' situation of a bankrupt firm. In such situations the bankruptcy court would rightfully be more interested by the requirements and provisions of section 364 of the Code, than it would be by a picayune examination of every legal argument that could be brought against separate provisions of the proposed agreement.

65 B.R. 358, 365 (W.D. Mich. 1986), aff'd, 834 F.2d 599 (6th Cir. 1987). *See also In re Farmland Indus., Inc.*, 294 B.R. 855, 885-86 (Bankr. W.D. Mo. 2003) ("Chapter 11 post-petition financing is fraught with danger for creditors, and debtors may have to enter into hard bargains to acquire . . . the funds needed for reorganization") (internal quotation and citation omitted).

i. DIP Note Roll-Up as consensually modified by the DIP Note Purchasers is appropriate

42. As described in the Motion, roll-ups are a common feature in debtor-in-possession financing arrangements, and courts in this jurisdiction have routinely approved such features in DIP financing. *See* Motion ¶ 48. Even if they were not common,, the fact remains that the Debtors could not obtain acceptable DIP financing without agreeing to the DIP Note Roll-Up (as consensually modified by the DIP Note Purchasers, *i.e.*, a dollar-for-dollar roll-up for monies actually lent following entry of the Final Order rather than the proposed two-for-one roll-up of $20 million upon entry of the Final Order), which was a material component of the DIP Note Facility and the willingness to put additional new money in on a subordinated basis on the ABL Priority Collateral. *See id.* at ¶ 97. As set forth in the First Day Declaration, the Debtors did not obtain any DIP financing proposals that did not require priming of the Prepetition Noteholders or use of the Prepetition Noteholders' cash collateral. *See* First Day Dec. ¶ 105. Moreover, without access to the Prepetition Noteholders' cash collateral and the up to $20 million in incremental

liquidity provided by the DIP Note Facility, the Debtors could not be assured of maintaining their ongoing operations in Chapter 11. Indeed, without final approval of the DIP Facilities and the concomitant assurances of "business as usual" operations, the Debtors could face an erosion of their critical relationships with third-party vendors and manufacturers located outside of the United States, an erosion which could jeopardize the going-concern value of the Debtors' estates and put at risk the current Stalking Horse Agreement. *See id.* at ¶¶ 61, 98–100. In addition, the Debtors believe that the DIP Note Roll-Up (particularly as consensually modified by the DIP Note Purchasers) is appropriate in light of the fact that the Prepetition Noteholders provided approximately $30 million of new money—without receiving any additional collateral—since December 2017, and this critical bridge funding was necessary for the Debtors to run the robust prepetition marketing process for the Sale of the Assets that ultimately led to the Debtors' entry into the Stalking Horse Agreement with the Stalking Horse Bidder. Kosturos Dec. ¶ 17.

43. Further, the Prepetition Noteholders' liens, and therefore their ability to benefit from the DIP Note Roll-Up, are subject to the Committee's right to challenge such liens during the Challenge Period. The proposed Final DIP Order, like the Interim DIP Order, expressly provides that the Committee has up to 60 days from the date of its appointment (*i.e.*, until at least July 22, 2018) to challenge the Prepetition Noteholders' liens and may seek further extensions from the Court for cause. Furthermore, if there is a successful challenge, nothing in the Final DIP Order prevents the Court from fashioning an appropriate remedy.

ii. Proposed fees and interest rates under the DIP Facilities are appropriate

44. The Committee argues that the cost of the DIP Facilities is excessive in relation to the amount of new money provided under the facilities. As set forth in the First Day Declaration, the terms of the DIP Facilities, including the fees and expenses payable thereunder, reflect the

most favorable terms on which the Debtors were able to find financing, and on which the DIP Lenders would extend financing. In any event, the Debtors believe that these terms are fair, reasonable, and customary for similar transactions. *See* First Day Dec. ¶ 104. The fact that the Committee does not like the fees and expenses does not mandate their rejection. Notably, the Committee has not come forward with any viable proposal to provide financing on better terms.

iii. DIP Liens on certain unencumbered assets are appropriate

45. The Committee objects to providing liens to the DIP Lenders on (a) the Debtors' foreign equity interests, (b) avoidance actions, and (c) commercial tort claims. While all these assets are subject to being made available to postpetition lenders and to prepetition lenders in exchange for the use of cash collateral,[9] the DIP Lenders have agreed not to seek liens or superpriority administrative claims on either avoidance actions or commercial tort claims as part of the Final Hearing.

46. With respect to the granting of a lien on the remaining unencumbered stock of the Debtors' foreign subsidiaries, which was approved as part of the Interim Order, the Debtors continue to believe that providing liens on these assets is entirely appropriate given the multitude of benefits provided by the DIP Facilities. The DIP Note Lenders are giving up to $20 million in entirely new-value DIP funding to the Debtors' estates. Yet, substantially all of the Debtors' assets are encumbered under the Prepetition Credit Facilities. First Day Dec. ¶ 106. As a result, new liens on previously unencumbered stock of the Debtors' foreign subsidiaries are appropriate to secure these new loans by the DIP Note Purchasers, and certainly would have been used as security for the funds advanced by any DIP lender providing new funding, especially in light of

[9] *See, e.g., In re UCI Int'l, LLC*, Case No. 16-11354 (MFW) (Bankr. D. Del. Aug. 16, 2016) (permitting liens on avoidance actions for use of cash collateral); *In re Windsor Petroleum Transp. Corp.*, Case No. 14-11708 (PJW) (Bankr. D. Del. Aug. 12, 2014) (same); *In re EWGS Intermediary, LLC*, Case No. 13-12876 (MFW) (Bankr. D. Del. Apr. 29, 2014) (same).

current projections based on the Stalking Horse Bid that suggest that the Prepetition Collateral will be insufficient to repay in full the Prepetition Obligations. Accordingly, the lien on the unencumbered stock of the Debtors' foreign subsidiaries was an essential condition for the DIP Note Purchasers to provide DIP financing.

47. The Committee separately contends that a purported adverse tax consequence would flow from providing the Prepetition Noteholders the lien on the remaining unencumbered stock of the Debtors' foreign subsidiaries, suggesting that such a lien "could create additional tax liability or reduce favorable tax attributes that belong to the Debtors' estates." Docket No. 166 ¶ 29. Contrary to the Committee's contentions, however, the language of the proposed Final DIP Order specifically addresses this contingency and makes clear that such liens on the Debtors' foreign equity interests will only be granted to the extent that there are no material tax consequences to the Debtors' estates. Such language is wholly appropriate. Indeed, this Court frequently enters final orders containing similar contingent lien language. *See, e.g., In re EveryWare Global, Inc.*, No. 15-10743 (LSS) (Bankr. D. Del. Apr. 28, 2018) [Docket No. 130]; *In re Spheris Inc.*, No. 10-10352 (KG) (Bankr. D. Del. Feb. 3, 2010) [Docket No. 117]; *In re Hayes Lemmerz Int'l, Inc.*, No. 09-11655 (MFW) (Bankr. D. Del. May 11, 2009) [Docket No. 237]. Thus, the Committee's purported tax-related concerns are a non-issue.

48. The Committee gives no reason why the Debtors, in their exercise of sound business judgment, cannot pledge these unencumbered assets to secure their obligations under the DIP Facilities—especially when no better or alternative financing or cash collateral option is available. Indeed, the Committee ignores the fact that the Prepetition Noteholders provided approximately $30 million since December 2017 without securing additional collateral from the Debtors, and that such funding was integral to the Debtors' ability to run a robust prepetition

marketing process for the Sale of the Asset that yielded the Stalking Horse Agreement with the Stalking Horse Bidder. Kosturos Dec. ¶ 17.

iv. Waiver of Marshalling is appropriate

49. The Committee argues that the DIP Lenders impermissibly seek to waive the marshalling rights of other creditors. The Committee's argument is unfounded for several reasons.

50. First, because "unsecured creditors cannot invoke the equitable doctrine of marshalling," which is a remedy only applicable between multiple secured creditors. *See Simon & Schuster, Inc. v. Advanced Mktg. Servs., Inc. (In re Advanced Mktg. Servs., Inc.)*, 360 B.R. 421, 429 n.8 (Bankr. D. Del. 2007) (holding that unsecured creditor could not direct secured lenders to satisfy their claim using different collateral). Pursuant to the marshaling doctrine, a court may require a senior secured creditor to first satisfy its claim from property of the debtor in which a junior creditor lacks an interest—thereby protecting the junior creditors' interest in property subject to both a senior and junior claim. *Fundex Capital Corp. v. Balaber-Strauss (In re Tampa Chain Co.)*, 53 B.R. 772, 777 (Bankr. S.D.N.Y. 1985). Thus, only a secured creditor can invoke the doctrine of marshaling. *Galey & Lord, Inc. v. Arley Corp. (In re Arlco, Inc.)*, 239 B.R. 261, 274 (Bankr. S.D.N.Y. 1999) (holding that unsecured creditors have no right to invoke the doctrine of marshaling) (citing *Herkimer Cnty. Trust Co. v. Swimelar (In re Prichard)*, 170 B.R. 41, 45 (Bankr. N.D.N.Y. 1994)).[10] Here, no secured party has objected to the marshaling waiver, and the Committee lacks standing to challenge the proposed limitations on marshalling. Accordingly, under the circumstances, the limitations on marshalling are appropriate.

[10] The Committee cites *Official Comm. of Unsecured Creditors v. Hudson United Bank (In re America's Hobby Ctr., Inc.)*, 223 B.R. 275, 287 (Bankr. S.D.N.Y. 1988) in support of its position that an official committee can stand in the shoes of the debtor-in-possession to pursue marshaling rights. However, this case is factually distinguishable. Indeed, the most significant difference is that here the Committee is not standing in the shoes of the Debtors.

51. Second, "[t]he requirements for marshaling" include "that there be no impairment of the right of the senior creditor to full satisfaction." 5 Collier on Bankruptcy ¶ 544.02[4][a] (16th ed. 2010); *see also Mark v. Am. Brick Mfg. Co.*, 10 Del. Ch. 58, 61 (1912) ("[I]t is well established that in marshaling assets, as respects creditors, no part of his security can be taken from a secured creditor until he is completely satisfied.") (citations omitted); *Cannon v. Hudson*, 5 Del. Ch. 112, 116 (1876) (noting that the doctrine only applies when "it will not trench upon the rights or operate to the prejudice of the party entitled to the double fund"); 21 C.J.S. Creditor and Debtor § 125 (June 2018) ("Equity will not enforce the doctrine of marshaling of assets where, by reason of the circumstances in a particular case, it would be inequitable and work an injustice to require one of two creditors having a lien on two securities to first resort to the one on which the other creditor has no lien."); 53 Am Jur. 2d. Marshaling Assets § 1 (May 2018) (noting the doctrine only applies "as long as that would not harm the senior creditor"). Thus, in *In re Atlas Commercial Floors, Inc.*, the court refused to apply the marshaling doctrine because, among other things, a junior creditor failed to "allege and prove" that a senior lienholder "could recover the balance of its claim from other funds." 125 B.R. at 188; *see also Victor Gruen Assocs., Inc. v. Glass*, 338 F.2d 826, 829–830 (9th Cir. 1964); *Century Brass Prods., Inc. v. Colonial Bank (In re Century Brass Prods., Inc.)*, 95 B.R. 277, 279–80 (D. Conn. 1989). Here, the Committee has not alleged that the Prepetition Noteholders could fully recover if they were required to marshal. Nor could it. Marshaling here would serve to reduce the Prepetition Noteholders' recovery on their secured claims. Because the Prepetition Noteholders would not fully recover their prepetition secured claim if required to marshal, the doctrine should not apply.

52. Third, while the Committee asserts that it would be inappropriate to enter a marshaling waiver at this juncture (Docket No. 166 ¶ 36), this Court routinely enters final orders

providing that DIP lenders will not be subject to the equitable doctrine of marshaling or any similar doctrine with respect to the DIP Collateral. *See, e.g.*, *In re EveryWare Global, Inc.*, No. 15-10743 (LSS) (Bankr. D. Del. Apr. 28, 2018) [Docket No. 130]; *In re Champion Enters., Inc.*, No. 09-14019 (KG) (Bankr. D. Del. Jan. 6, 2010) [Docket No. 244]; *In re Hayes Lemmerz Int'l, Inc.*, No. 09-11655 (MFW) (Bankr. D. Del. May 11, 2009) [Docket No. 237]. It would likewise be entirely appropriate to do so here.

53. Finally, even assuming, *arguendo*, that the marshaling doctrine could apply to these cases, its application to the DIP Note Purchasers would be inequitable. The marshaling doctrine "is founded . . . in equity, being designed to promote fair dealing and justice. . . . It deals with the rights of all who have an interest in the property involved and it is applied only when it can be equitably fashioned as to all of the parties." *Meyer v. United States*, 375 U.S. 233, 237 (1963). "Its purpose is to prevent the *arbitrary action* of a senior lienor from destroying the rights of a junior lienor or a creditor having less security." *Id.* (emphasis added). Here, the DIP Note Purchasers have not engaged in arbitrary action; instead, they seek only to avail themselves of the benefit of a carefully struck bargain with the Debtors that provided the Debtors with funding that no other lender was willing to provide. If the DIP Note Purchasers were forced to first recover from their own Prepetition Collateral to satisfy their DIP Notes claims, they would simply be further diluting the value of the collateral securing their Prepetition Notes. The DIP Note Purchasers would not have agreed to that term when they agreed to provide funding under the DIP Notes Facility, and imposing such a term on them now would be patently unfair. The Court should reject the Committee's request to distort an equitable doctrine to reach an inequitable result.

v. Waivers of Sections 506(c) and 552(b) are appropriate

54. The Committee objects to the Final DIP Order including customary waivers of the Debtors' rights under Sections 506(c) and 552(b) of the Bankruptcy Code.[11] Secured lenders often request and obtain waivers of surcharges under Section 506(c)[12] and the "equities-of-the-case" exception under Section 522(b) from debtors.[13] The proceeds of the DIP Facilities are being used to pay the Debtors' postpetition expenses on a current basis pursuant to the Budget. Without the benefit of the section 506(c) waiver, the DIP Lenders would be double-charged for the administration of these Chapter 11 Cases—once through the DIP Lenders' funding of these Chapter 11 Cases and again if the DIP Lenders' recovery is limited by the use of the very funding the DIP Lenders' provided. As a result, far from creating a windfall in favor of the DIP Lenders, as the Committee suggests, the Section 506(c) waiver is meant to ensure that the DIP

[11] The Committee's reliance on *In re Lockwood Corp.*, 556 B.R. 170 (B.A.P. 8th Cir. 1998) and *Hartford Underwriters Ins. Co. v. Union Planters Bank*, N.A., 530 U.S. 1, 12 (2000) is misplaced. Docket No. 166 ¶ 37. For one thing, the case on which *Lockwood* relies for the proposition that Section 506(c) waivers are unenforceable, *Hartford Underwriters Ins. Co. v. Magna Bank, N.A. (In re Hen House Interstate, Inc.)*, 150 F.3d 868 (8th Cir. 1999), was vacated on rehearing en banc, *Hartford Underwriters Ins. Co. v. Magna Bank, N.A. (In re Hen House Interstate, Inc.)*, 177 F.3d 719 (8th Cir. 1999) (en banc)—a decision that was affirmed by the Supreme Court in *Hartford Underwriters*. Moreover, the holding the Committee attributes to *Hartford Underwriters*—"that debtor's decision to waive section 506(c) must be made in a manner consistent with its obligations 'to seek recovery under the section whenever his fiduciary duties so require'"—was no more than dicta in which the Court was responding to a policy argument the petitioner had made. 530 U.S. at 11–12. The actual holding of *Hartford Underwriters* is "that 11 U.S.C. § 506(c) does not provide an administrative claimant an independent right to use the section to seek payment of its claim." *Id.* at 14.

[12] *See, e.g.*, *In re Cent.Grocers, Inc.*, Case No. 17-10993 (LSS) (Bankr. D. Del. June 8, 2017) [Docket No. 368] (granting waiver of Section 506(c)); *In re Golfsmith Int'l Holdings, Inc.*, Case No. 16-12033 (LSS) (Bankr. D. Del. Sept. 16, 2016) [Docket No. 89] (same); *In re Draw Another Circle, LLC*, Case No. 16-11452 (KJC) (Bankr. D. Del. June 14, 2016) [Docket No. 70] (same); *In re Pac. Sunwear of Cal., Inc.*, Case No. 16-10882 (LSS) (Bankr. D. Del. April 8, 2016) [Docket No. 100] (same); *In re Hancock Fabrics, Inc.*, Case No. 16-10296 (BLS) (Bankr. D. Del. Mar. 2, 2016) [Docket No. 273] (same).

[13] *See, e.g.*, *In re Cent. Grocers, Inc.*, Case No. 17-10993 (LSS) (Bankr. D. Del. June 8, 2017) [Docket No. 368] (granting waiver of Section 552(b) "equities of the case")); *Golfsmith Intt'l Holdings, Inc.*, Case No. 16-12033 (LSS) (Bankr. D. Del. Sept. 16, 2016) [Docket No. 89] (same); *In re Draw Another Circle, LLC*, Case No. 16-11452 (KJC) (Bankr. D. Del. June 14, 2016) [Docket No. 70] (same); *In re Hancock Fabrics, Inc.*, Case No. 16-10296 (BLS) (Bankr. D. Del. Mar. 2, 2016) [Docket No. 273] (same); *In re Swift Energy Co.*, Case No. 15-12670 (MFW) (Bankr. D. Del. Feb. 2, 2016) [Docket No. 224] (same).

Lenders' burden of administering these Chapter 11 Cases is not shouldered solely by the DIP Lenders.

55. Moreover, the DIP Lenders would simply not provide DIP financing absent the estates' waiver of rights under Section 506(c). As an exchange for the critical liquidity provided under the DIP Facilities, the Debtors believe that the waiver is appropriate in the exercise of its business judgment. *See In re Antico Mfg. Co.*, 31 B.R. 103, 106 n.1 (Bankr. E.D.N.Y. 1983) ("[c]ertainly, the paragraph in question is not so detrimental or improper as to jeopardize the loss of the entire financing package").

56. Similarly, the waiver of the "equities of the case" exception under Section 552(b) of the Bankruptcy Code is appropriate. Courts evaluating the "equities of the case" exception under Section 552(b) consider "whether a debtor expended unencumbered funds of the estate, at the expense of the unsecured creditors, to enhance the value of the collateral." *In re Laurel Hill Paper Co.*, 393 B.R. 89, 93 (Bankr. M.D.N.C. 2008) (citing *In re Tower Air, Inc.*, 397 F.3d 191, 205 (3rd Cir. 2005)). Here, the Committee has not identified what enhancements could reasonably apply in these Chapter 11 Cases where there will be a Sale of the Assets to the Stalking Horse Bidder, or otherwise highest and best bidder pursuant to Section 363 of the Bankruptcy Code.

57. Further, the Section 552(b) waiver, like the other terms addressed above, was a condition to the over-arching consensual bargain struck on an arm's-length basis with both the DIP Lenders. This not only facilitated the extension of critical new liquidity by the DIP Lenders, but also avoided a costly and time-consuming priming battle. *See* First Day Dec. ¶¶ 99–100, 105–06. Indeed, the DIP Note Lenders have agreed to provide the Debtors with essential postpetition financing that was otherwise unavailable, provided the Debtors with $30 million of

additional prepetition bridge financing without requiring additional collateral, and have agreed to the continued use of cash collateral.

58. Importantly, a prepetition secured party is entitled to the benefits of Section 552(b) unless it is established that the equities of the case require otherwise. However, the Committee has offered absolutely no basis for this Court to conclude that the equities of the case exception applies. It has presented no evidence that waiver of the equities of the case exception would prejudice the Debtors or their abilities to maximize recoveries for their creditors. Accordingly, there is nothing inherently improper or even off-market about such a waiver of Section 552(b).

vi. Adequate protections afforded to the DIP Lenders are appropriate

59. The Committee also objects to the adequate protection package provided to the Prepetition Secured Parties because the Debtors and the Prepetition Secured Parties "have failed to establish any diminution in value of the Debtors' estates . . . ." Docket No. 166 ¶ 40. This objection is without merit.

60. Sections 363(c)(2) and 364(d) of the Bankruptcy Code provide that, where the debtor seeks to use cash collateral or impose priming liens, the debtor must either have the consent of the secured creditor or prove that the secured creditor is adequately protected. *See* 11 U.S.C. §§ 363(c)(2), 364(d). In addition, it is the debtor—not the secured creditor—that bears the burden of proof with respect to adequate protection. *See* 11 U.S.C. § 363(p) ("In any hearing under this section – (1) the trustee has the burden of proof on the issue of adequate protection . . . ."); 11 U.S.C. § 364(d)(2) ("In any hearing under this subsection, the trustee has the burden of proof on the issue of adequate protection."); 11 U.S.C. § 1107(a) ("a debtor in possession shall have all of the rights . . . and powers, and shall perform all the functions and duties . . . of a trustee serving in a case under this chapter").

61. Absent a secured lender's consent, the debtor must show that the secured lender is adequately protected. Failure to provide such adequate protection could result in the denial of access to cash collateral and an inability to obtain DIP financing on a priming lien basis, which, in these cases, would be detrimental to the Debtors' operations and estates. In addition, the Bankruptcy Code provides that, if the Prepetition Secured Parties do not receive adequate protection, they are entitled to relief from the automatic stay to foreclose on their collateral. *See* 11 U.S.C. § 362(d)(l) ("[T]he court shall grant relief from the stay . . . (1) for cause, including the lack of adequate protection of an interest in property of such party in interest.").

62. The Committee's assertion that a secured creditor must prove a decline in the value of the collateral before being entitled to adequate protection has no support in the law. Indeed, the cases cited in the Committee's objection to support this argument are all inapplicable, insofar as such cases address the situation where secured creditors moved for adequate protection under Section 363(e) of the Bankruptcy Code, rather than where the debtor sought to use cash collateral or impose priming liens. *See In re Gunnison Ctr. Apts.*, LP, 320 B.R. 391, 395–96 (Bankr. D. Colo. 2005) (creditor sought relief from the automatic stay with respect to certain property because, among other things, it lacked adequate protection due to a decline in the property's value); *In re Elmira Litho, Inc.*, 174 B.R. 892, 897–98, 905–06 (S.D.N.Y. 1994) (same); *Carson v. Fed. Land Bank (In re. Carson)*, 34 B.R. 502, 502–03, 505 (D. Kan. 1983) (same).

63. Accordingly, neither the Prepetition Secured Parties nor the Debtors are affirmatively obligated to offer evidence of the decline in the value of the collateral for the Prepetition Secured Parties to be entitled to adequate protection. Instead, it is the Debtors' burden—a burden that they have satisfied—to demonstrate that the Prepetition Secured Parties

are receiving adequate protection, where, as here, the Debtors are using cash collateral and are imposing DIP-related priming liens on the Prepetition Secured Parties. In determining a debtor's inherent flexibility to provide various forms of adequate protection in the context of a priming financing arrangement, a court must consider whether the proposed adequate protection is within the debtor's sound business judgment. *In re Allegheny Int'l, Inc.*, 118 B.R. 282, 307 (Bankr. W.D. Pa. 1990) (debtor's entry into adequate protection agreement with lenders was an exercise of its business judgment). What constitutes adequate protection must be decided on a case-by-case basis. *See, e.g., In re Mosello*, 195 B.R. 277, 289 (Bankr. S.D.N.Y. 1992); *In re Realty Southwest Assocs.*, 140 B.R. 360, 366 (Bankr. S.D.N.Y. 1992) (citing *Martin v. United States*, 761 F.2d 472, 274 (8th Cir. 1985)). Moreover, courts should take equitable considerations into account in determining what constitutes adequate protection. *See In re Dynaco Corp.*, 162 B.R. 389, 394 (Bankr. D.N.H. 1993) ("Adequate protection will take many forms, only some of which are set forth in section 361 of the Bankruptcy Code . . . and must be determined based upon equitable considerations arising from the particular facts of each proceeding."); *Stein v. U.S. Farmers Home Admin.*, 19 B.R. 458, 459 (Bankr. E.D. Pa. 1982) ("The equities in each case must be weighed in striking a balance.").

64. The focus of the adequate protection requirement is on preserving the secured creditor's position at the time of the bankruptcy filing. *See In re WorldCom, Inc.*, 304 B.R. 611, 618–19 (Bankr. S.D.N.Y. 2004) ("The legislative history for section 361 of the Bankruptcy Code, which sets forth how adequate protection may be provided under section 363, makes clear that the purpose is to insure that the secured creditor receives the value for which the creditor bargained for prior to the debtor's bankruptcy.").

65. Here, the bargain between the Debtors and their lenders required the Debtors to provide the Prepetition Secured Parties with the adequate protection set forth in the proposed Final Order. The Committee does not provide any basis in fact or law from which to argue that the adequate protection package is outside the range of reasonableness in the District or otherwise.

vii. Challenge period and investigation budget is appropriate

66. The Committee seeks, among other things, modifications to the Challenge Period and an increase in the Committee's investigation budget. As a preliminary matter, the current terms of the proposed Final DIP Order and DIP Facilities are part and parcel of an integrated deal that the DIP Lenders required in order to make the loans that make it possible to fund the Committee's professionals at all. And not even the Committee disputes that the terms provided by the DIP Lenders are the only ones available to the Debtors.

67. While the Committee complains about the length of its sixty (60) day "investigation" in the proposed Final DIP Order, such period complies with the local rules in this jurisdiction and would appear to afford to the Committee sufficient time to conduct any investigation in to the claims and liens of the Prepetition Secured Parties. Further, investigation periods similar to the 60-day period proposed here have been approved in other cases. *See, e.g.*, *In re VER Techs. Holdco LLC*, Case No. 18-10843 (KG) (Bankr. D. Del May 2, 2018) [Docket No. 194] (establishing a challenge period for the creditors' committee of sixty (60) calendar days from the selection of counsel to the creditors' committee); *In re The Walking Co. Holdings, Inc.*, Case No. 18-10474 (LSS) (Bankr. D. Del. April 5, 2018) [Docket No. 193] (establishing a challenge period from the date the committee was formed to sixty (60) calendar days thereafter); *In re Aerogroup Int'l, Inc.*, Case No. 17-11962 (KJC) (Bankr. D. Del. Nov. 2, 2017) (Docket No. 231) (establishing a challenge period of sixty (60) days after the committee formation date); *In re*

Panda Temple Power, LLC, Case No. 17-10839 (LSS) (Bankr. D. Del. May 12, 2017) [Docket No. 116] (establishing a challenge period for any party in interest, including the committee, of a maximum of seventy five (75) calendar days from entry of the interim DIP order). Such period is sufficient, particularly taking into account the size of the Debtors and the limited events potentially subject to investigation.

68. The Committee further argues that the 60-day challenge period "should be tolled upon the Committee's filing of a motion for standing to bring a Challenge," and that without such tolling the 60-day "challenge period is illusory." Docket No. 166 ¶ 44. Not so. There is no reason the Committee could not file a motion for standing simultaneously with any Challenge it wishes to assert. Indeed, the 60-day Challenge period would be "illusory" if the Committee were permitted to toll the challenge period indefinitely by filing a motion for standing, allowing the Committee to extend the length of its investigation while its standing request is pending. The Committee's request should therefore be denied.

69. Moreover, the DIP Lenders are willing to increase the investigation budget to $100,000.00—a sum that is more than adequate for the Committee to fulfill its fiduciary duties and consistent with investigation budgets approved in other cases. *See, e.g.*, *In re VER Techs. Holdco LLC*, Case No. 18-10843 (KG) (Bankr. D. Del May 2, 2018) [Docket No. 194] (approving an investigation budget of $100,000.00); *In re The Walking Co. Holdings, Inc.*, Case No. 18-10474 (LSS) (Bankr. D. Del. April 4, 2018) [Docket No. 193] (approving a maximum investigation budget of $75,000.00); *In re Pac. Sunwear of Cal., Inc.*, Case No. 16-10882 (LSS) (Bankr. D. Del. May 24, 2016) [Docket No. 388] (same); *In re Cal Dive Int'l, Inc.*, Case No. 15-10458 (CSS) (Bankr. D. Del. April 20, 2015) [Docket No. 282] (same); *In re PES Holdings,*

LLC, Case No. 18-10122 (KG) (Bankr. D. Del. Feb. 27, 2018) [Docket No. 218] (approving a maximum investigation budget of $50,000.00).

70. Finally contrary to the Committee's assertions, the releases set forth in the proposed Final DIP Order are explicitly subject in all respects to the Committee's Challenge and the proposed Final DIP Order already includes language authorizing disgorgement by the Prepetition Secured Parties in the event of a successful challenge by the Committee. Notably, no other party that may be holding claims against the released parties has objected to the releases. Ultimately, the Committee will be able to pursue such actions on behalf of all unsecured creditors to the extent the Committee's investigation determines that there are valid claims against the released parties.

viii. The DIP Facilities allow the Committee to fulfill its fiduciary obligations

71. The Committee also argues that the projected disbursements to the Committee as set forth in the initial Budget are insufficient and that somehow the Committee's professionals receive disparate treatment under the Carve-Out. The Committee advances this argument despite the fact that such Budget reflects only anticipated cash expenditures during the relevant period. Given that the Committee's professionals may not be retained until July 16, 2018, and given the interim compensation procedures that are expected to be in place for these Chapter 11 Cases, the Debtors do not expect to make material cash expenditures to the Committee's professionals until just after the first 13 weeks of these cases. Notwithstanding, the DIP Lenders are willing to increase the budget for the Committee's professionals' compensation to $400,000.00.

72. Moreover, contrary to the Committee's assertion, all professionals of the Debtors' estates, including the Debtors' professionals, are subject to the same Carve-Out provision in the Final DIP Order. Accordingly, the DIP Facilities do not provide for disparate treatment of the Committee's professionals.

CONCLUSION

WHEREFORE, the Debtors respectfully request that the Court overrule the objections filed by the Information Officer and the Committee, and enter the Final DIP Order in the form to be submitted to the Court by the Debtors, and grant such other and further relief as is just and proper.

Dated: June 12, 2018
Wilmington, Delaware

/s/ Mark D. Collins

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Michael J. Merchant (No. 3854)
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Proposed Counsel to the Debtors

EXHIBIT 1

Prepetition ABL Credit Agreement

EXECUTION VERSION

REVOLVING CREDIT AGREEMENT

Dated as of July 31, 2015

Among

THE ROCKPORT GROUP, LLC
THE ROCKPORT COMPANY, LLC
as U.S. Borrowers

ROCKPORT CANADA ULC
as Canadian Borrower

TRG CLASS D, LLC

THE SUBSIDIARIES OF THE ROCKPORT GROUP, LLC
FROM TIME TO TIME PARTY HERETO

THE FINANCIAL INSTITUTIONS PARTY HERETO
as Lenders

CITIZENS BUSINESS CAPITAL
as Administrative Agent

CITIZENS BANK, N.A.
as Bookrunner and Lead Arranger

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SCHEDULES:

EXHIBITS:

REVOLVING CREDIT AGREEMENT

REVOLVING CREDIT AGREEMENT, dated as of July 31, 2015 (this "**Agreement**"), by and among THE ROCKPORT GROUP, LLC, a Delaware limited liability company ("**Rockport Group**") and THE ROCKPORT COMPANY, LLC, a Delaware limited liability company ("**Rockport**," and together with Rockport Group, each a "**U.S. Borrower**" and, collectively, the "**U.S. Borrowers**"), ROCKPORT CANADA ULC, a British Columbia unlimited liability company, (the "**Canadian Borrower**" and together with the U.S. Borrowers, each a "**Borrower**" and, collectively, the "**Borrowers**"), TRG CLASS D, LLC, a Delaware limited liability company ("**Holdings**"), the Subsidiaries of Rockport Group from time to time party hereto, the Lenders and CITIZENS BUSINESS CAPITAL, as administrative agent and collateral agent for the Lenders (in its capacity as administrative and collateral agent, and including any of its Affiliates (including any branches thereof) performing any of the functions of administrative agent or collateral agent hereunder or under any of the other Loan Documents, the "**Administrative Agent**").

RECITALS

A. The management of Drydock Footwear, LLC, a Delaware limited liability company ("**Drydock**") and New Balance Holding, Inc., a Massachusetts corporation ("**NBH**") and/or one of its affiliates will, directly or indirectly, contribute (x)(i) a portion of their respective equity interests in Drydock and (ii) NBH and/or one of its affiliates will, directly or indirectly, contribute all of its equity interests in DD Management Services LLC, a Massachusetts limited liability company to The Rockport Group Holdings, LLC ("**RGH**") in exchange for equity interests in RGH and (y) the management of Drydock and NBH and/or one of its affiliates will, directly or indirectly, contribute a portion of their respective equity interests in Drydock to TRG 1-P Holdings, LLC, a Delaware limited liability company ("**TRG 1-P**") in exchange for equity interests in TRG 1-P (collectively, the "**DD Contribution**").

B. To fund a portion of the transactions contemplated by the Master Purchase Agreement (the "**Master Purchase Agreement**"), dated as of January 23, 2015, by and among Rockport Group, Reebok International Ltd., a Massachusetts corporation ("**Seller**") and adidas AG, a corporation organized under the laws of the Federal Republic of Germany ("**Adidas**"), the Sponsor, Crescent Mezzanine Partners VI, L.P., the GoldPoint Entities and certain other investors (including the Management Investors) will contribute an amount in Cash equity contributions, directly or indirectly, to each of RGH and TRG 1-P, which Cash equity, in the aggregate, shall be no less than **30.0%** of the sum of (1) the aggregate gross proceeds of the Senior Notes issued on the Closing Date, (2) the aggregate gross proceeds received from Revolving Loans (as defined in the Revolving Credit Agreement) borrowed on the Closing Date to the extent funding the Transactions or fees and expenses related to the Transactions, (3) the DD Contribution and (4) the amount of such cash and any rollover equity contributed, in each case on the Closing Date (excluding, for the avoidance of doubt, any seller notes) (such contribution and rollover, collectively, the "**Equity Contribution**").

C. RGH and TRG 1-P will each contribute their respective portion of the DD Contribution and the Equity Contribution to TRG Intermediate Holdings, LLC, a Delaware limited liability company ("**TRG Holdings**").

D. TRG Holdings will contribute the DD Contribution and Equity Contribution to Holdings.

E. Holdings will contribute the DD Contribution and Equity Contribution to Rockport Group.

F. To consummate the transactions contemplated by the Master Purchase Agreement, Rockport Group and Rockport will issue the Senior Notes and will borrow Loans under this Agreement.

G. Pursuant to the terms of the Master Purchase Agreement, on the Closing Date, Rockport Group will purchase (i) all of the issued and outstanding equity interests of Rockport and (ii) certain other assets used in Rockport's U.S. business (the "**Acquisition**").

H. The Borrowers have requested that (a) the Lenders extend credit in the form of Revolving Loans at any time and from time to time during the Availability Period, in an aggregate principal amount at any time outstanding not in excess of **$60,000,000**, subject to increase as provided herein, (b) the Swingline Lenders extend credit, at any time and from time to time during the Availability Period, in the form of Swingline Loans, in an aggregate principal amount at any time outstanding not in excess of **$5,000,000** and (c) the Issuing Banks issue Letters of Credit, in aggregate face amount at any time outstanding not in excess of **$10,000,000**.

I. The Lenders and the Swingline Lender are willing to extend such credit to the Borrowers and the Issuing Banks are willing to issue Letters of Credit for the account of the Borrowers and Guarantors, in each case on the terms and subject to the conditions set forth herein. Accordingly, the parties hereto agree as follows:

ARTICLE 1 DEFINITIONS

Section 1.01 Defined Terms. As used in this Agreement, the following terms have the meanings specified below:

"**ABR**," when used in reference to any Loan or Borrowing, refers to whether such Loan, or the Loans comprising such Borrowing, are bearing interest at a rate determined by reference to the Alternate Base Rate.

"**Account**" has the meaning assigned to such term in the Pledge and Security Agreement.

"**Account Debtor**" means any Person obligated on an Account.

"**ACH**" means automated clearing house transfer.

"**Acquisition**" has the meaning assigned to such term in the recitals to this Agreement.

"**Additional Agreement**" has the meaning assigned to such term in Article 8.

"**Additional Equity**" means, at the option of Holdings, the issuance by Holdings of additional common equity, "qualified preferred" equity or other equity (such other equity to be on terms reasonably satisfactory to the Arranger) or a combination of the foregoing, in each case, in lieu of all or any portion of the Senior Notes.

"**Additional Lender**" has the meaning assigned to such term in Section 2.23(b).

"**Adidas**" has the meaning assigned to such term in the recitals to this Agreement.

"**Adjustment Date**" means the first day of each April, July, October and January, as applicable.

"**Administrative Agent**" has the meaning assigned to such term in the preamble to this Agreement.

"**Administrative Agent Account**" has the meaning assigned to such term in Section 2.21(d).

"**Administrative Questionnaire**" means an Administrative Questionnaire in the form of Exhibit A.

"**Adverse Proceeding**" means any action, suit, proceeding (whether administrative, judicial or otherwise), governmental investigation or arbitration (whether or not purportedly on behalf of Rockport Group or any of its Subsidiaries) at law or in equity, or before or by any Governmental Authority, domestic or foreign (including any Environmental Claims), whether pending or, to the knowledge of Rockport Group or any of its Subsidiaries, threatened in writing against or affecting Rockport Group or any of its Subsidiaries or any property of Rockport Group or any of its Subsidiaries.

"**Affiliate**" means, as applied to any Person, any other Person directly or indirectly Controlling, Controlled by, or under common Control with, that Person. No Person shall be an "Affiliate" solely because it is an unrelated portfolio company of the Sponsor and none of the Administrative Agent, any Lender or any of their respective Affiliates shall be considered an Affiliate of Holdings, any Borrower or any of their respective Subsidiaries.

"**Aggregate Commitments**" means, at any time, the sum of the Commitments at such time. As of the Closing Date, the Aggregate Commitments are **$60,000,000**.

"**Agreement**" has the meaning assigned to such term in the preamble hereof.

"**Alternate Base Rate**" means, for any day, a rate per annum equal to the highest of (a) the Federal Funds Effective Rate in effect on such day *plus* **½%**, (b) the LIBO Rate (which rate shall be calculated based upon an Interest Period of **one (1) month** and shall be determined on a daily basis) *plus* **1.0%** and (c) the Prime Rate. Any change in the Alternate Base Rate due to a change in the Prime Rate, the Federal Funds Effective Rate or the LIBO Rate (as calculated above), as the case may be, shall be effective from and including the effective date of such change in the Prime Rate, the Federal Funds Effective Rate or the LIBO Rate (as calculated above), as the case may be.

"**Applicable Percentage**" means, with respect to any Lender, a percentage equal to a fraction the numerator of which is such Lender's Commitment and the denominator of which is the Aggregate Commitments; provided that for purposes of Section 2.22 and otherwise herein, when there is a Defaulting Lender, any such Defaulting Lender's Commitment shall be disregarded in any such calculations. If the Commitments have terminated or expired, the Applicable Percentages of each Lender shall be determined based on the Revolving Exposure of the applicable Lenders, giving effect to any assignments and to any Lender's status as a Defaulting Lender at the time of determination.

"**Applicable Quotation Date**" has the meaning set forth in the definition of "Spot Selling Rate."

"**Applicable Rate**" means, for any day, with respect to any ABR Loan, LIBO Rate Loan or BA Rate Loan, the applicable rate per annum set forth below under the relevant caption, as the case may be, based upon the Average Historical Excess Availability as of the most recent Adjustment Date; provided that until the Adjustment Date on January 1, 2016, the "Applicable Rate" shall be the applicable rate per annum set forth below in Category 3:

Average Historical Excess Availability	LIBO Rate Spread and BA Rate Spread	ABR Spread
Category 1		
Average Historical Excess Availability less than **33.3%**	**2.00%**	**1.00%**
Category 2		
Average Historical Excess Availability equal to or greater than **33.3%** but less than **66.7%**	**1.75%**	**0.75%**
Category 3		
Average Historical Excess Availability equal to or greater than **66.7%**	**1.50%**	**0.50%**

The Applicable Rate shall be adjusted quarterly on a prospective basis on each Adjustment Date based upon the Average Historical Excess Availability in accordance with the table above; provided that if a Borrowing Base Certificate is not delivered when required pursuant to Section 5.01(k), the "Applicable Rate" shall be the applicable rate per annum set forth above in Category 1 until a Borrowing Base Certificate is delivered in compliance with Section 5.01(k).

"**Approved Fund**" means, with respect to any Lender, any Person (other than a natural person) that is engaged in making, purchasing, holding or investing in bank loans and similar extensions of credit in the ordinary course of its activities and that is administered, advised or managed by (a) such Lender, (b) an Affiliate of such Lender or (c) an entity or an Affiliate of an entity that administers or manages such Lender.

"**Arranger**" means Citizens Bank, N.A.

"**Assignment and Assumption**" means an assignment and assumption entered into by a Lender and an assignee (with the consent of any party whose consent is required by Section 9.05), and accepted by the Administrative Agent, in the form of Exhibit B or any other form approved by the Administrative Agent and the Borrower Representative.

"**Attorney**" has the meaning assigned to such term in Article 8.

"**Availability Period**" means the period from and including the Closing Date to but excluding the Maturity Date or the maturity date applicable to such Loan or Commitment pursuant to Section 2.25.

"**Available Commitment**" means, at any time, the Aggregate Commitments then in effect *minus* the Total Revolving Exposure at such time.

"**Average Historical Excess Availability**" means, at any Adjustment Date, the quotient, expressed as a percentage obtained by dividing (a) the average daily Excess Availability for the Fiscal Quarter immediately preceding such Adjustment Date (with the Borrowing Base at such time for any such day used to determine "Excess Availability", calculated by reference to the most recent Borrowing Base Certificate delivered to the Administrative Agent on or prior to such day pursuant to Section 5.01(k)) by (b) the average daily Line Cap for such Fiscal Quarter.

"**BA Period**" means with respect to any BA Rate Loan, the period commencing on the Business Day such Loan is disbursed or continued and ending on the date **one (1)**, **two (2)**, **three (3)**, or **six (6) months** thereafter, as selected by the Borrower Representative in its Notice of Borrowing or Notice of Conversion/Continuation – BA Rate; provided that:

(a) if any BA Period pertaining to a BA Rate Loan would otherwise end on a day which is not a Business Day, that BA Period shall be extended to the next succeeding Business Day unless the result of such extension would be to carry such BA Period into another calendar month, in which event such BA Period shall end on the immediately preceding Business Day;

(b) any BA Period pertaining to a BA Rate Loan that begins on the last Business Day of a calendar month (or on a day for which there is no numerically corresponding day in the calendar month at the end of such BA Period) shall end on the last Business Day of the calendar month at the end of such BA Period; and

(c) no BA Period shall extend beyond the Termination Date.

"**BA Rate**" means, in respect of any BA Period applicable to a BA Rate Loan, the rate per annum determined by the Administrative Agent by reference to the average rate quoted on the Reuters Monitor Screen (Page CDOR, or such other Page as may replace such Page on such Screen on the purpose of displaying Canadian interbank bid rates for Canadian Dollar bankers' acceptances) applicable to Canadian Dollars bankers' acceptances with a term comparable to such BA Period as of **10:00 a.m.** (New York time) **two (2)** Business Days before the first day of such BA Period. If for any reason the Reuters Monitor Screen rates are unavailable, BA Rate means the rate of interest determined by the Administrative Agent that is equal to the arithmetic mean (rounded upwards to the nearest basis point) of the rates quoted by The Bank of Nova Scotia, Royal Bank of Canada and Canadian Imperial Bank of Commerce in respect of Canadian Dollar bankers' acceptances with a term comparable to such BA Period. No adjustment shall be made to account for the difference between the number of days in a year on which the rates referred to in this definition are based and the number of days in a year on the basis of which interest is calculated in this Agreement.

"**Banking Services**" means each and any of the following bank services provided to any Loan Party (a) under any arrangement that is in effect on the Closing Date and is between any Loan Party and a counterparty that is the Administrative Agent or a Lender or an Affiliate of the Administrative Agent or a Lender as of the Closing Date or (b) under any arrangement that is entered into after the Closing Date and is by any Loan Party with any counterparty that is the Administrative Agent or a Lender or an Affiliate of the Administrative Agent or a Lender at the time such arrangement is entered into: (i) commercial credit cards, (ii) stored value cards, (iii) purchasing cards and (iv) treasury management services (including controlled disbursement, ACH transactions, return items, interstate depository network services, overdrafts and e-payables).

"**Banking Services Obligations**" means any and all obligations of the Loan Parties, whether absolute or contingent and however and whenever created, arising, evidenced or acquired (including all renewals, extensions and modifications thereof and substitutions therefor), in connection with Banking Services, in each case, that has been designated to the Administrative Agent in writing by the Borrower Representative as being a Banking Services Obligation for the purposes of the Loan Documents, it being understood that each counterparty thereto shall be deemed (A) to appoint the Administrative Agent as its agent under the applicable Loan Documents and (B) to agree to be bound by the provisions of Article 8, Section 9.02, Section 9.05 and Section 9.10 as if it were a Lender.

"**Bankruptcy Code**" means Title 11 of the United States Code (11 U.S.C. § 101 *et seq.*).

"**Berkshire**" means Berkshire Partners LLC and its Affiliates.

"**Blocked Account Agreement**" has the meaning assigned to such term in Section 2.21(c).

"**Blocked Accounts**" has the meaning assigned to such term in Section 2.21(c).

"**Board**" means the Board of Governors of the Federal Reserve System of the United States of America.

"**Borrower**" has the meaning assigned to such term in the preamble to this Agreement and "**Borrowers**" means, collectively, the Canadian Borrower, the U.S. Borrowers and "Borrower" means any of them.

"**Borrower Representative**" means the Borrower Representative appointed pursuant to Section 11.01.

"**Borrowing**" means any (a) Revolving Loans of the same Type and Class made, converted or continued on the same date and, in the case of LIBO Rate Loans and BA Rate Loans, as to which a single Interest Period or BA Period, as applicable, is in effect, (b) Swingline Loan or (c) Protective Advance.

"**Borrowing Base**" means, the Dollar Equivalent of (a) the Credit Card Receivables Component with respect to the Eligible Credit Card Receivables of the Loan Parties, plus (b) the Trade Accounts Receivable Component with respect to the Eligible Trade Accounts Receivable of the Loan Parties, plus (c) the Inventory Component with respect to the Eligible Inventory of the Loan Parties, minus (d) the then-amount of all Reserves as may at any time and from time to time be established in accordance with Section 2.24. The Borrowing Base at any time shall be determined by reference to the most recent Borrowing Base Certificate delivered to the Administrative Agent pursuant to Section 5.01(m) and Reserves established pursuant to Section 2.24. For the avoidance of doubt, no assets of UK Holdings shall be included in the Borrowing Base.

"**Borrowing Base Certificate**" means a certificate from a Financial Officer of the Borrower Representative, in substantially the form of Exhibit C, as such form, subject to the terms hereof, may from time to time be modified as agreed by the Borrower Representative and the Administrative Agent or such other form which is acceptable to the Administrative Agent in its reasonable discretion.

"**Borrowing Request**" means a request by the Borrower Representative for a Borrowing in accordance with Section 2.03 and substantially in the form attached hereto as Exhibit G, as such form, subject to the terms hereof, may from time to time be modified as agreed by the Borrower Representative and the Administrative Agent or such other form as shall be reasonably acceptable to the Administrative Agent.

"**Business Day**" means any day that is not a Saturday, Sunday or other day on which commercial banks in Boston, Massachusetts are authorized or required by law to remain closed; provided that when used in connection with (a) a LIBO Rate Loan, the term "Business Day" shall also exclude any day on which banks are not open for dealings in Dollar deposits in the London interbank market, and (b) an ABR Loan to the Canadian Borrower or a BA Rate Loan, the term "Business Day" shall also exclude any day on which banks are not open for business in Toronto, Ontario.

"**Canadian Benefit Plans**" means any plan, fund, program, or policy, whether oral or written, formal or informal, funded or unfunded, insured or uninsured, providing material employee benefits, including medical, hospital care, dental, sickness, accident, disability, life insurance, pension,

supplemental pension, bonus, profit sharing, severance, deferred compensation, stock compensation, retirement or savings benefits, under which any Loan Party has any liability with respect to any Canadian employee or former Canadian employee, but excluding any Canadian Pension Plans.

"**Canadian Borrower**" has the meaning assigned to such term in the preamble to this Agreement.

"**Canadian Defined Benefit Plan**" means a Canadian Pension Plan, which contains a "defined benefit provision," as defined in subsection 147.1(1) of the ITA.

"**Canadian Dollars**" or "**Cdn$**" shall mean the lawful currency of Canada.

"**Canadian Loan Parties**" means any Loan Party formed under the laws of Canada or any province or territory thereof.

"**Canadian Obligations**" means all unpaid principal of and accrued and unpaid interest (including interest accruing during the pendency of any bankruptcy, insolvency, receivership or other similar proceeding, regardless of whether allowed or allowable in such proceeding) on the Loans made by the Lenders to the Canadian Borrower, all LC Exposure in respect of Letters of Credit Issued for the account of the Canadian Borrower, all accrued and unpaid fees and all reasonable and documented out-of-pocket expenses, reimbursements, indemnities and all other advances to, debts, liabilities and obligations of the Canadian Loan Parties to the Lenders or to any Lender, the Administrative Agent, any Issuing Bank or any indemnified party arising under the Loan Documents in respect of any Loan or Letter of Credit, whether direct or indirect (including those acquired by assumption), absolute, contingent, due or to become due, now existing or hereafter arising.

"**Canadian Pension Event**" means (a) the withdrawal of a Loan Party from a Canadian Defined Benefit Plan; or (b) the filing of a notice of interest to terminate in whole or in part a Canadian Defined Benefit Plan or the filing of an amendment with the applicable Governmental Authority which terminates a Canadian Defined Benefit Plan, in whole or in part, or the treatment of an amendment as a termination or partial termination of a Canadian Defined Benefit Plan; or (c) the institution of proceedings by any Governmental Authority to terminate a Canadian Defined Benefit Plan in whole or in part or have a replacement administrator or trustee appointed to administer a Canadian Defined Benefit Plan; or (d) any other event or condition or declaration or application which might constitute grounds for the termination or winding up of a Canadian Defined Benefit Plan, in whole or in part, or the appointment by any Governmental Authority of a replacement administrator or trustee to administer a Canadian Defined Benefit Plan; or (e) non-compliance by a Canadian Loan Party with the terms of a Canadian Pension Plan or Canadian Benefit Plan or the laws applicable thereto.

"**Canadian Pension Plans**" means each pension plan required to be registered under Canadian federal or provincial law that is maintained or contributed to by, or to which there is or may be an obligation to contribute by, a Loan Party in respect of any employees or former employees in Canada, but does not include the Canada Pension Plan or the Quebec Pension Plan as maintained by the Government of Canada or the Province of Quebec, respectively.

"**Canadian Prime Rate**" means, for any day, a rate per annum equal to the higher of (a) the annual rate of interest announced from time to time by the Administrative Agent as being its reference rate then in effect for determining interest rates on Canadian Dollar denominated commercial loans made by it in Canada and which it refers to as its "prime rate" (or its equivalent or analogous rate) or, if such rate is no longer quoted by it, any similar rate quoted by a Schedule I Bank (Canada) (as determined by the Administrative Agent), and (b) the BA Rate existing on such day in respect of a BA Period of **thirty**

(30) days plus **1.00%** per annum. Any change in any interest rate provided for in this Agreement based upon the Canadian Prime Rate shall take effect at the time of such change in the Canadian Prime Rate.

"**Canadian Revolving Exposure**" means, with respect to any Lender at any time, the sum of (a) the outstanding principal amount of such Lender's Revolving Loans made to the Canadian Borrower, (b) its LC Exposure in respect of Letters of Credit issued for the account of the Canadian Borrower, (c) its Applicable Percentage of the aggregate principal amount of Swingline Loans made available to the Canadian Borrower and outstanding at such time and (d) its Applicable Percentage of the aggregate principal amount of Protective Advances made to, on behalf of, or in respect of, the Canadian Borrower and outstanding at such time.

"**Canadian Revolving Loan**" means a Revolving Loan made by the Lenders to the Canadian Borrower.

"**Canadian Sublimit**" means **$15,000,000**.

"**Canadian Subsidiary**" means any Subsidiary incorporated or organized under the laws of Canada or any province or territory thereof.

"**Canadian Swingline Lender**" means, with respect to any Swingline Loans to the Canadian Borrower, any Lender (or any foreign branch or Affiliate of such Lender who makes Swingline Loans denominated in Canadian Dollars) who may be designated as a Swingline Lender, from time to time, upon agreement by the Borrower Representative, the Administrative Agent and such Lender.

"**Capital Lease**" means, as applied to any Person, any lease of any property (whether real, personal or mixed) by that Person as lessee that, in conformity with GAAP, is or should be accounted for as a capital lease on the balance sheet of that Person.

"**Capital Stock**" means any and all shares, interests, participations or other equivalents (however designated) of capital stock of a corporation, any and all equivalent ownership interests in a Person (other than a corporation), including partnership interests and membership interests, and any and all warrants, rights or options to purchase or other arrangements or rights to acquire any of the foregoing, but excluding for the avoidance of doubt any Indebtedness convertible into or exchangeable for any of the foregoing.

"**Captive Insurance Subsidiary**" means any Subsidiary of the Borrower Representative that is subject to regulation as an insurance company (or any Subsidiary thereof).

"**Cash**" means money, currency or a credit balance in any Deposit Account.

"**Cash Dominion Period**" means (a) each period beginning on the occurrence of an Event of Default under Sections 7.01(a), 7.01(c)(i) (solely with respect to a breach of Section 6.18(a)), 7.01(c)(ii), 7.01(c)(iii), 7.01(d) (solely with respect to a Borrowing Base Certificate), 7.01(f) or 7.01(g) until such Event of Default is no longer continuing and (b) each period beginning on the date that Excess Availability shall have been less than (x) **12.5%** of the Line Cap for **five (5)** consecutive Business Days or (y) **$6,000,000** at any time and ending on the date that Excess Availability shall have been at least the greater of (x) **12.5%** of the Line Cap and (y) **$6,000,000** for **thirty (30)** consecutive calendar days (this clause (b), a "**Liquidity Condition**"). Notwithstanding anything to the contrary herein or in any other Loan Document, the Credit Extensions made on the Closing Date shall not be deemed to give rise to a Liquidity Condition unless and until a Credit Extension is made after the Closing Date and a Liquidity Condition subsequently occurs.

"**Cash Equivalent Bank**" has the meaning set forth in the definition of "Cash Equivalents."

"**Cash Equivalents**" means, as at any date of determination, (a) readily marketable securities (i) issued or directly and unconditionally guaranteed or insured as to interest and principal by the United States or Canadian federal government or (ii) issued by any agency or instrumentalities of the United States or Canada the obligations of which are backed by the full faith and credit of the United States or Canada, as applicable, in each case maturing within one year after such date and, in each case, repurchase agreements and reverse repurchase agreements relating thereto; (b) readily marketable direct obligations issued by any state of the United States of America, any Canadian province or territory, or any political subdivision of any such state, province or territory or any public instrumentality thereof, in each case maturing within one year after such date and having, at the time of the acquisition thereof, a rating of at least A-2 from S&P or at least P-2 from Moody's (or, if at any time neither S&P nor Moody's shall be rating such obligations, an equivalent rating from another nationally recognized statistical rating agency reasonably acceptable to the Administrative Agent) and, in each case, repurchase agreements and reverse repurchase agreements relating thereto; (c) commercial paper maturing no more than one year from the date of creation thereof and having, at the time of the acquisition thereof, a rating of at least A-1 from S&P or at least P-1 from Moody's (or, if at any time neither S&P nor Moody's shall be rating such obligations, an equivalent rating from another nationally recognized statistical rating agency reasonably acceptable to the Administrative Agent); (d) deposits, money market deposits, time deposit accounts, certificates of deposit, or bankers' acceptances maturing within one year after such date and issued or accepted by any Lender or by any commercial bank organized under the laws of the United States of America or any state thereof or the District of Columbia or Canada that (i) has capital and surplus of not less than **$100,000,000** or (ii) is at least "adequately capitalized" (as defined in such regulations) (each Lender and each commercial bank referred to herein as a "**Cash Equivalent Bank**") or, in each case, repurchase agreements and reverse repurchase agreements relating thereto entered into with any Cash Equivalent Bank; (e) shares of any money market mutual fund that (i) has substantially all of its assets invested in the types of investments referred to in clauses (a) and (b) above, (ii) has net assets of not less than **$250,000,000** and (iii) has the highest rating obtainable from either S&P or Moody's; and (f) with respect to Foreign Subsidiaries, investments of the types and maturities described in clause (a) through (e) above issued by a Cash Equivalent Bank or any commercial bank of recognized international standing chartered in the country where such Foreign Subsidiary is domiciled having unimpaired capital and surplus of at least **$500,000,000**.

"**Change in Law**" means (a) the adoption of any law, rule or regulation after the date of this Agreement, (b) any change in any law, rule or regulation or in the interpretation or application thereof by any Governmental Authority after the date of this Agreement or (c) compliance by any Lender or any Issuing Bank (or, for purposes of Section 2.15(b), by any lending office of such Lender or such Issuing Bank or by such Lender's or such Issuing Bank's holding company, if any) with any request, guideline or directive (whether or not having the force of law) of any Governmental Authority made or issued after the date of this Agreement (other than any such request, guideline or directive to comply with any law, rule or regulation that was in effect on the date of this Agreement). For purposes of this definition and Section 2.15, (x) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, guidelines, requirements and directives thereunder or issued in connection therewith or in implementation thereof and (y) all requests, rules, guidelines, requirements or directives promulgated by the Bank for International Settlements, the Basel Committee on Banking Supervision (or any successor or similar authority) or the United States or foreign regulatory authorities, in each case pursuant to Basel III, shall in each case described in clauses (x) and (y) above, be deemed to be a Change in Law, regardless of the date enacted, adopted, issued or implemented; provided that increased costs as a result of any Change in Law pursuant to clauses (x) and (y) above shall only be reimbursable by the applicable Borrower to the extent the applicable Lender is requiring reimbursement therefor from similarly situated borrowers under comparable syndicated credit facilities.

"**Change of Control**" means the earliest to occur of:

(a) (i) at any time prior to an IPO, the Permitted Holders directly or indirectly ceasing to beneficially own (within the meaning of Rule 13d-3 and Rule 13d-5 under the Exchange Act) Capital Stock representing more than **50.0%** of the total voting power of all of the outstanding voting stock of Holdings; or (ii) at any time on or after an IPO, (A) the acquisition by any Person or group (within the meaning of Section 13(d)(3) or Section 14(d)(2) of the Exchange Act), including any group acting for the purpose of acquiring, holding or disposing of securities (within the meaning of Rule 13d-5(b)(1) under the Exchange Act, but excluding any employee benefit plan and/or person acting as the trustee, agent or other fiduciary or administrator therefor), other than one or more Permitted Holders, in a single transaction or in a related series of transactions, by way of merger, amalgamation, consolidation or other business combination or purchase of beneficial ownership (within the meaning of Rule 13d-3 under the Exchange Act) of Capital Stock representing more than the greater of (x) **35.0%** of the total voting power of all of the outstanding voting stock of Holdings and (y) the percentage of the total voting power of all of the outstanding voting stock of Holdings owned, directly or indirectly, beneficially by the Permitted Holders or (B) during each period of **twelve (12) consecutive months**, the board of directors (or any other equivalent governing body) of Holdings shall not consist of Continuing Directors; unless, in the case of either clause (a)(i) or (a)(ii) above, the Permitted Holders have, at such time, the right or the ability by voting power, contract or otherwise to elect or designate for election at least a majority of the board of directors (or any other equivalent governing body) of Holdings;

(b) Holdings or any Successor Parent Company ceases to, directly or indirectly, own 100% of the Capital Stock of Rockport Group free of Liens (other than Liens permitted under Sections 6.02(a), 6.02(t) or 6.02(ff)); or

(c) any "Change of Control" (or comparable term) in any document pertaining to the Senior Notes, any Indebtedness in excess of the Threshold Amount, or any permitted refinancing thereof; provided that, in the case of any such debt which is unsecured or secured by a Lien on the Collateral which is junior to the lien securing such debt is in an aggregate outstanding principal amount in excess of the Threshold Amount.

"**Charges**" has the meaning assigned to such term in Section 9.19.

"**Class**", when used in reference to any Loan or Borrowing, refers to whether such Loan, or the Loans comprising such Borrowing, are Revolving Loans, Swingline Loans or Protective Advances or other loans made pursuant to Section 2.25.

"**Closing Date**" means July 31, 2015, which is the date on which the conditions specified in Section 4.01 are satisfied (or waived in accordance with Section 9.02).

"**Code**" means the Internal Revenue Code of 1986, as amended.

"**Co-Investor**" means (a) any person (other than the Sponsor or any Management Investor) who becomes a holder of Capital Stock in Holdings (or any of the direct or indirect parent companies of Holdings) on the Closing Date in connection with the Transactions, (b) a person, if any, that acquires, within sixty (60) days of the Closing Date, any Capital Stock in Holdings (or any of the direct or indirect parent companies of Holdings) held by the Sponsor as of the Closing Date and (c) in each of clauses (a) and (b), an Affiliate of any such person; provided, that, for purposes of the definition of "Permitted Holder," Co-Investors shall only include for purposes of clauses (a) and (b) those Persons that have been disclosed in writing prior to the Closing Date to the Arranger and, in the case of clause (b), that are reasonably acceptable to the Arranger.

"**Collateral**" means any and all property of a Loan Party subject to a Lien under the Collateral Documents and any and all other property of any Loan Party, now existing or hereafter acquired, that is or becomes subject to a Lien pursuant to the Collateral Documents in favor of the Administrative Agent, on behalf of itself and the Secured Parties, to secure any of the Secured Obligations.

"**Collateral Access Agreement**" has the meaning assigned to such term in the Pledge and Security Agreement.

"**Collateral Agent**" means Citizens Bank, N.A.

"**Collateral Documents**" means, collectively, each Pledge and Security Agreement, the Mortgages and any other documents granting a Lien upon the Collateral as security for payment of any of the Secured Obligations pursuant to the terms hereof or any other Loan Document.

"**Commercial Letter of Credit**" means any Letter of Credit issued for the purpose of providing the primary payment mechanism in connection with the purchase of any materials, goods or services by any Borrower or any of its Subsidiaries.

"**Commitment**" means, with respect to each Lender, the commitment of such Lender to make Revolving Loans, acquire participations in Letters of Credit and Swingline Loans, and to make Protective Advances hereunder, expressed as an amount representing the maximum possible aggregate amount of such Lender's Revolving Exposure hereunder, as such commitment may be (a) increased from time to time as a result of a Commitment Increase, (b) reduced from time to time pursuant to Section 2.09 or (c) reduced or increased from time to time pursuant to assignments by or to such Lender pursuant to Section 9.05. The initial amount of each Lender's Commitment is set forth on the Commitment Schedule, or in the Assignment and Assumption pursuant to which such Lender shall have assumed its Commitment, as applicable. The initial aggregate amount of the Lenders' Commitments on the Closing Date is **$60,000,000**.

"**Commitment Fee Rate**" means for each Fiscal Quarter or portion thereof, the applicable rate per annum set forth below based upon the amount by which the average daily Aggregate Commitments exceed the average daily principal balance of the outstanding Revolving Loans and Letters of Credit during the immediately preceding Fiscal Quarter; provided that until the Adjustment Date on January 1, 2016, the "Commitment Fee Rate" shall be the applicable rate per annum set forth below in Category 1:

Average Daily Principal Balance of the Outstanding Revolving Loans and Letters of Credit	**Commitment Fee Rate**
Category 1	
Less than **50.0%** of the average daily Aggregate Commitments	**0.375%**
Category 2	
Equal to or greater than **50.0%** of the average daily Aggregate Commitments.	**0.250%**

The Commitment Fee Rate shall be adjusted quarterly on a prospective basis on each Adjustment Date based upon the percentage obtained by dividing the average daily Aggregate Commitments by the average daily principal balance of the outstanding Revolving Loans and Letters of Credit during the immediately preceding Fiscal Quarter in accordance with the table above.

"**Commitment Increase**" has the meaning assigned to such term in Section 2.23(a).

"**Commitment Increase Lender**" has the meaning assigned to such term in Section 2.23(e).

"**Commitment Schedule**" means the Schedule attached hereto as Schedule 1.01(a).

"**Commodity Exchange Act**" means the Commodity Exchange Act (7 U.S.C. § 1 *et seq.*), as amended from time to time, and any successor statute.

"**Company Material Adverse Effect**" means any event, change, fact, condition, circumstance, occurrence, or effect on, the operations, Assets (as defined in the Master Purchase Agreement) or financial condition of the Acquired Companies (as defined in the Master Purchase Agreement) or the Business (as defined in the Master Purchase Agreement) that (a) has had a material adverse effect on the operations, Assets, liabilities or financial condition of the Business, taken as a whole or (b) would prohibit the performance by the Seller (as defined in the Master Purchase Agreement), any of its Affiliates or the Acquired Companies of their respective obligations under this Agreement or the consummation of the transactions contemplated hereby; provided that in no event will any of the following, alone or in combination, constitute, nor shall any of the following be taken into account in determining whether there has been, or would reasonably likely to be, a "Material Adverse Effect": (i) events, changes, facts, conditions, circumstances, occurrences or effects generally affecting the industries or markets in which the Acquired Companies operate the Business, (ii) events, changes, facts, conditions, circumstances, occurrences or effects generally affecting the economy or the debt, credit or securities markets (including any decline in the price of any security or any market index), (iii) any acts of God, outbreak or escalation of hostilities or declared or undeclared acts of war or terrorism, (iv) changes in Legal Requirements (as defined in the Master Purchase Agreement) after the date hereof, (v) changes in IFRS (as defined in the Master Purchase Agreement) after the date hereof, (vi) events, changes, facts, conditions, circumstances, occurrences or effects, including without limitation the failure by the Acquired Companies or the Business to meet any internal projections, forecasts or estimates of revenues, earnings or other financial metrics for any period, proximately caused by actions taken by the Seller or any Acquired Company which the Buyer (as defined in the Master Purchase Agreement) has requested in writing or to which the Buyer has otherwise consented to in writing (including pursuant to Section 6.2.1 of the Master Purchase Agreement), or (vii) events, changes, facts, conditions, circumstances or occurrences resulting from the announcement or the existence of, or compliance (other than compliance with the obligation set forth in Section 6.2 of the Master Purchase Agreement to operate in the Ordinary Course of Business (as defined in the Master Purchase Agreement)) with, the Master Purchase Agreement and the Contemplated Transactions (as defined in the Master Purchase Agreement) (provided that this clause (vii) will not diminish the effect of, and will be disregarded for purposes of, the representations and warranties contained in Sections 3.3, 3.4, 4.3 and 4.4 of the Master Purchase Agreement and any other representations and warranties relating to required consents or approvals, change in control provisions or similar provisions granting rights of acceleration, termination, modification or waiver based upon the entering into of the Master Purchase Agreement or the consummation of the Contemplated Transactions), unless, in the case of clause (i), (ii), (iii), (iv) or (v), such material adverse effect has had a materially disproportionate impact on the financial condition or operating results of the Business taken as a whole, relative to other affected participants in the industries in which the Acquired Companies operate (in which case, only the incremental disproportionate impact with be taken into account in determining whether there has been or would reasonably be expected to have a Material Adverse Effect). For purposes of clarity, any adverse effect resulting from the failure of the Seller to take actions requested by the Buyer pursuant to Section 6.2.1 of the Master Purchase Agreement (other than due to the fact that such actions would result in a breach or violation of applicable Legal Requirements or Adidas' policies) shall be taken into account for purposes of determining whether there has been a Material Adverse Effect (or whether a Material Adverse Effect would be reasonably likely to occur).

"**Compliance Certificate**" means a Compliance Certificate substantially in the form of Exhibit D.

"**Concentration Account**" has the meaning assigned to such term in Section 2.21(d).

"**Confidential Information**" has the meaning assigned to such term in Section 9.13.

"**Connection Income Taxes**" means Other Connection Taxes that are imposed on or measured by net income (however denominated) or that are franchise Taxes or branch profit Taxes.

"**Consolidated Capital Expenditures**" means, for any period, the aggregate amount of all expenditures of Rockport Group and its Subsidiaries during such period determined on a consolidated basis that, in accordance with GAAP, are or should be included as additions to property, plant and equipment in the consolidated statement of cash flows of Rockport Group. Notwithstanding the foregoing, Consolidated Capital Expenditures shall not include:

(a) the purchase price of property, plant or equipment or software in an amount equal to the proceeds of asset dispositions of fixed or capital assets,

(b) expenditures made with tenant allowances received by Rockport Group or any of its Subsidiaries from landlords in the ordinary course of business and subsequently capitalized,

(c) any amounts spent in connection with Investments permitted pursuant to Section 6.07, Permitted Acquisitions and expenditures made in connection with the Transactions, in each case to the extent such expenditures are accounted for as capital expenditures,

(d) expenditures financed with the proceeds of an issuance of Capital Stock of any Parent Company, or a capital contribution to any Borrower from any Parent Company,

(e) expenditures that are accounted for as capital expenditures by Rockport Group or any Subsidiary and that actually are paid for by a Person other than Rockport Group or any Subsidiary to the extent neither Rockport Group nor any Subsidiary has provided or is required to provide or incur, directly or indirectly, any consideration or obligation to such Person or any other Person (whether before, during or after such period),

(f) any expenditures which are contractually required to be, and are, advanced or reimbursed to Rockport Group or any Subsidiary in Cash by a third party (including landlords) during such period of calculation,

(g) the book value of any asset owned by Rockport Group or any Subsidiary prior to or during such period to the extent that such book value is included as a capital expenditure during such period as a result of such Person reusing or beginning to reuse such asset during such period without a corresponding expenditure actually having been made in such period; provided that (i) any expenditure necessary in order to permit such asset to be reused shall be included as a capital expenditure during the period in which such expenditure actually is made and (ii) such book value shall have been included in capital expenditures when such asset was originally acquired,

(h) that portion of interest on Indebtedness incurred for capital expenditures which is paid in Cash and capitalized in accordance with GAAP,

(i) expenditures made in connection with the replacement, substitution, restoration, upgrade, development or repair of assets to the extent financed with (x) insurance or settlement proceeds paid on account of the loss of or damage to the assets being replaced, substituted, restored, upgraded, developed or repaired or (y) awards of compensation arising from the taking by eminent domain or condemnation of the assets being replaced,

(j) in the event that any equipment is purchased simultaneously with the trade-in of existing equipment, the gross amount of the credit granted by the seller of such equipment for the equipment being traded in at such time, or

(k) expenditures relating to the construction, acquisition, replacement, reconstruction, development, refurbishment, renovation or improvement of any property which has been transferred to a Person other than Rockport Group or any Subsidiary during the same Fiscal Year in which such expenditures were made to the extent of the Cash proceeds received by Rockport Group or Subsidiary in connection with such transfer.

"**Consolidated Cash Interest Expense**" means, for any period, Consolidated Interest Expense for such period, excluding (a) any amount not paid currently in Cash, (b) amortization of deferred financing costs, (c) Transaction Costs otherwise included in Consolidated Interest Expense and (d) any annual agency fees with respect to any Indebtedness, in each case, to the extent included in Consolidated Interest Expense.

"**Consolidated EBITDA**" means, for any period, an amount determined for Rockport Group and its Subsidiaries on a consolidated basis equal to the total of (a) Consolidated Net Income as determined in accordance with IFRS (or GAAP, as applicable) for such period *plus* (b) the sum, without duplication, of (to the extent deducted in calculating Consolidated Net Income, other than in respect of clauses (x), (xi), (xii) and (xiv) below) the amounts of:

(i) consolidated interest expense (including (A) fees and expenses paid to the Administrative Agent and the Lenders in connection with their services hereunder and to the initial purchasers and collateral agent pursuant to the Note Purchase Agreement, (B) other bank, administrative agency (or trustee) and financing fees, (C) costs of surety bonds in connection with financing activities and (D) commissions, discounts and other fees and charges owed with respect to letters of credit, bankers' acceptance or any similar facilities or financing and hedging agreements);

(ii) Taxes paid (including pursuant to any Tax sharing arrangements) and provisions for Taxes of Rockport Group and its Subsidiaries, including, in each case federal, state, provincial, local, foreign, unitary, franchise and similar Taxes, including any penalties and interest;

(iii) total depreciation and amortization expense;

(iv) non-cash charges, expenses or losses (including, without limitation, non-cash costs and/or expenses incurred pursuant to any management equity plan, stock option plan or any other stock subscription or shareholder agreement, inventory write-downs, dispositions of excess inventory, impairment charges or asset write-offs, and losses from investments using the equity method); provided that if any such non-cash charge represents an accrual or reserve for potential cash items in any future period, (A) the Borrower may determine not to add back such non-cash charge in the current period and (B) to the extent the Borrower does decide to add back such non-cash charge, the cash payment in respect thereof in such future period shall be subtracted from Consolidated EBITDA in the period in which such payment is made;

(v) (A) Transaction Costs and (B) transaction fees, costs and expenses incurred (1) in connection with the consummation of any transaction (or any transaction proposed and not consummated) permitted under this Agreement, including the issuance or amendment of Capital Stock, Investments, acquisitions, dividends, dispositions outside the ordinary course of business, recapitalizations, mergers, amalgamations, option buyouts or the incurrence, amendment or repayment of Indebtedness or similar transactions, (2) in connection with any IPO (whether or not consummated) or (3) to the extent reimbursable by third parties pursuant to indemnification provisions or similar agreements or insurance; provided that in respect of any fees, costs and expenses incurred pursuant to clause (3) above, Rockport Group in good faith expects to receive reimbursement for such fees, costs and expenses within the next four Fiscal Quarters (it being understood that to the extent not actually received within such Fiscal Quarters, such reimbursement amounts shall be deducted in calculating Consolidated EBITDA for such Fiscal Quarters);

(vi) the amount of any non-controlling or minority interest expense or reduction of Consolidated Net Income attributable to third parties in Non-Wholly Owned Subsidiaries;

(vii) any portion of management, monitoring, consulting, transaction and advisory fees and related expenses actually paid by or on behalf of, or accrued by, Rockport Group or any of its Subsidiaries (A) to the Sponsor (or its Affiliates or management companies) to the extent permitted under this Agreement or (B) as permitted by Section 6.11(f);

(viii) to the extent (x) non-recurring, unusual or extraordinary, (y) incurred in connection with a Subsequent Closing (as defined in the Master Purchase Agreement as in effect on the date hereof) or (z) incurred prior to the termination of the Transition Services Agreement, restructuring and similar charges, severance, relocation costs, integration and facilities opening costs and other business optimization expenses, signing costs, retention or completion bonuses, recruiting, stock-option or equity-based compensation expense, transition costs, setup costs including, without limitation, IT consulting (including IT systems development and IT training costs), moving inventory, costs related to closure/consolidation of facilities and curtailments or modifications to pension and post-retirement employee benefit plans (including any settlement of pension liabilities), including, without limitation, any one time expense relating to enhanced accounting function or other transaction costs, including those associated with becoming a standalone entity or a public company;

(ix) earn-out expenses, deferred commissions and contingent payments due to Seller (x) in connection with the Transactions or incurred or accrued in connection with any Permitted Acquisition or other Investment permitted pursuant to Section 6.07 and paid or accrued during such period and (y) on similar acquisitions and Investments completed prior to the Closing Date;

(x) (i) pro forma "run rate" cost savings, operating expense reductions and synergies related to the Transactions that are reasonably identifiable, factually supportable and projected by Rockport Group in good faith to result from actions that have been taken or with respect to which substantial steps have been taken or are expected to be taken (in the good faith determination of Rockport Group) through the date that is **twelve (12) months** following the termination date of the Transition Services Agreement; and (ii) pro forma "run rate" cost savings, operating expense reductions and synergies related to acquisitions, dispositions and other specified transactions (including, for the avoidance of doubt, acquisitions occurring prior to the Closing Date), restructurings, cost savings initiatives and other initiatives that are reasonably identifiable, factually supportable and projected by Rockport Group in good faith to result from actions that have been taken or with respect to which substantial steps have been taken or are expected to be taken (in the good faith determination of Rockport Group) within **eighteen (18) months** after such acquisition, disposition or other specified transaction, restructuring, cost savings initiative or other initiative;

(xi) business interruption insurance in an amount representing the earnings for the applicable period that such proceeds are intended to replace (whether or not received so long as Rockport Group in good faith expects to receive the same within the next four Fiscal Quarters (it being understood that to the extent not actually received within such Fiscal Quarters, such proceeds shall be deducted in calculating Consolidated EBITDA for such Fiscal Quarters));

(xii) unrealized net losses in the fair market value of any arrangements under Hedge Agreements and losses, charges and expenses attributable to the early extinguishment or conversion of Indebtedness, arrangements under Hedge Agreements or other derivative instruments (including deferred financing expenses written off and premiums paid);

(xiii) Cash actually received (or any netting arrangements resulting in reduced Cash expenditures) during such period, and not included in Consolidated Net Income in any period, to the extent that the non-Cash gain relating to such Cash receipt or netting arrangement was deducted in the calculation of Consolidated EBITDA pursuant to clause (c)(i) below for any previous period and not added back;

(xiv) charges, losses or expenses to the extent indemnified, insured, reimbursed or reimbursable or otherwise covered by a third party (to the extent expected to be received by Rockport Group within **365** days);

(xv) add-backs consistent with those identified in that certain Quality of Earnings Analysis dated October 10, 2014 titled "Change in SEA Guidelines", "Adjustment to SEA Guideline Savings" and "Shared Cost Savings Estimate";

(xvi) non-Cash amortization of any upfront amounts prepaid as part of the purchase price paid pursuant to the Transactions including any advance payments on the Transition Services Agreement;

(xvii) restructuring costs and other similar expenses related to the Transactions (including without limitation related professional fees and expenses) in an amount not to exceed **$21,000,000** in the aggregate within **six (6) months** following the final Subsequent Closing (which, for the avoidance of doubt, shall be in addition to any add-back set forth in clause (viii) above); and

(xviii) non-recurring costs, fees and expenses related or resulting from the transition to distribution agreements (including, without limitation, the sale of assets at less than face value), except with respect to operations in Canada and the United States;

provided that the aggregate amount of any such adjustment or add-backs under clauses (viii) and (x)(ii) above shall not exceed 15% of Consolidated EBITDA in any four Fiscal Quarter period (calculated before giving effect to any such add-backs and adjustments);

minus (c) to the extent such amounts increase Consolidated Net Income:

(i) other non-Cash items (excluding any such non-Cash item to the extent it represents the reversal of an accrual or reserve for a potential Cash item in any prior period or the accrual of revenue, rebate income or recording of receivables in the ordinary course of business);

(ii) unrealized net gains in the fair market value of any arrangements under Hedge Agreements;

(iii) the amount added back to Consolidated EBITDA pursuant to clause (b)(v)(B)(3) above to the extent such reimbursement amounts were not received within the time period required by such clause;

(iv) the amount added back to Consolidated EBITDA pursuant to clause (b)(xi) above to the extent such business interruption proceeds were not received within the time period required by such clause;

(v) to the extent that such Person adds back the amount of any non-Cash charge to Consolidated EBITDA pursuant to clause (b)(iv) above, the cash payment in respect thereof in such future period; and

(vi) deductions of the type identified in that certain Quality of Earnings Analysis dated October 10, 2014 (to be adjusted to exclude (x) costs and expenses anticipated to be incurred once Rockport Group ceases to use the services provided under the Transition Services Agreement, (y) amounts related to store closings and (z) out-of-period adjustments).

Notwithstanding anything to the contrary, it is agreed, that for the purpose of calculating the Fixed Charge Coverage Ratio for any period that includes the Fiscal Quarter ended on or about September 30, 2014, the Fiscal Quarter ended on or about December 31, 2014, the Fiscal Quarter ended on or about March 31, 2015 or the Fiscal Quarter ended on or about June 30, 2015 (i) Consolidated EBITDA for the Fiscal Quarter ended on or about September 30, 2014 shall be deemed to be **$10,600,000**, (ii) Consolidated EBITDA for the Fiscal Quarter ended on or about December 31, 2014 shall be deemed to be **$20,900,000**, (iii) Consolidated EBITDA for the Fiscal Quarter ended on or about March 31, 2015 shall be deemed to be **$(5,900,000)** and (iv) Consolidated EBITDA for the Fiscal Quarter ended on or about June 30, 2015 shall be deemed to be **$6,700,000**.

"**Consolidated Interest Expense**" means, for any period (a) total interest expense (including that portion attributable to Capital Leases in accordance with GAAP and capitalized interest) of Rockport Group and its Subsidiaries on a consolidated basis in accordance with GAAP with respect to all outstanding Indebtedness of Rockport Group and its Subsidiaries, (i) including (A) all commissions, discounts and other fees and charges owed with respect to Indebtedness of Rockport Group and any of its Subsidiaries and (B) any commitment fees on the unused portion of the Commitments as set forth in Section 2.12 and (ii) excluding (A) any costs associated with obtaining, or breakage costs in respect of, Hedge Agreements and (B) any fees and expenses associated with any permitted dispositions and asset sales, acquisitions and Investments, equity issuances or issuances of Indebtedness (in each case, whether or not consummated), *less* (b) any Cash interest income of Rockport Group or any of its Subsidiaries actually received during such period. For avoidance of doubt, Consolidated Interest Expense shall be calculated net of payments made or received under interest rate Hedge Agreements.

"**Consolidated Net Income**" means, for any period, the net income (or loss) of Rockport Group and its Subsidiaries on a consolidated basis for such period taken as a single accounting period determined in conformity with IFRS or GAAP, as applicable; provided that there shall be excluded, without duplication,

(a) the income (or loss) of any Person (other than a Subsidiary of Rockport Group) in which any other Person (other than Rockport Group or any of its Subsidiaries) has a joint interest, except, with respect to any income, to the extent of the amount of dividends or distributions or other payments (including any ordinary course dividend, distribution or other payment) paid in Cash (or to the extent converted into Cash) to Rockport Group or any of its Subsidiaries by such Person during such period,

(b) gains, income, losses, expenses or charges (less all fees and expenses chargeable thereto) attributable to asset sales or other dispositions (including asset retirement costs) or returned surplus assets of any U.S. Pension Plan, Canadian Benefit Plans or Canadian Pension Plans outside of the ordinary course of business,

(c) gains, income, losses, expenses or charges from extraordinary, unusual or non-recurring items (including all costs, fees and expenses related to the Transactions (including without limitation all costs, fees and expenses related to the Initial Closing or a Subsequent Closing (each as defined in the Master Purchase Agreement as in effect on the date hereof))),

(d) any unrealized or realized net foreign currency translation, hedging or derivative transaction gains or losses impacting net income (including currency re-measurements of Indebtedness and any net gains or losses resulting from Hedge Agreements for currency exchange risk associated with the above or any other currency related risk),

(e) any net gains, charges or losses with respect to (i) disposed, abandoned and discontinued operations (other than assets held for sale) and any accretion or accrual of discounted liabilities, (ii) facilities, plants, stores or distribution centers that have been closed during such period and (iii) asset retirement obligations,

(f) all gains and losses on sales of assets outside the ordinary course of business,

(g) any net income or loss (less all fees and expenses or charges related thereto) attributable to the early extinguishment or modification of Indebtedness,

(h) (i) any charges, costs, expenses, accruals or reserves incurred pursuant to any management equity plan or stock option plan or any other management or employee benefit plan or agreement, pension plan, any stock subscription or shareholder agreement or any distributor equity plan or agreement and (ii) any charges, costs, expenses, accruals or reserves in connection with the rollover, acceleration or payout of Capital Stock held by management of any Parent Company, Rockport Group or any of its Subsidiaries, in each case, to the extent that (in the case of any Cash charges, costs and expenses) such charges, costs or expenses are funded with net Cash proceeds contributed to the common equity of Rockport Group as a capital contribution or as a result of the sale or issuance of Capital Stock (other than Disqualified Capital Stock) of Rockport Group,

(i) accruals and reserves that are established within **twelve (12) months** after the Closing Date and after any Subsequent Closing that are so required to be established as a result of the Transactions in accordance with IFRS or GAAP, as applicable,

(j) any (A) write-off or amortization made in such period of deferred financing costs and premiums paid or other expenses incurred directly in connection with any early extinguishment or modification of Indebtedness or (B) good will or other asset impairment charges, write-offs or write-downs, and

(k) (i) Cash and non-Cash effects of adjustments (including the effects of such adjustments pushed down to Rockport Group and its Subsidiaries) in such Person's consolidated financial statements pursuant to GAAP (including but not limited to inventory, property and equipment, software, goodwill, intangible assets, in-process research and development, deferred revenue, leases and debt line items thereof) resulting from the application of recapitalization accounting or acquisition accounting, as the case may be, in relation to the Transactions or any consummated acquisition or the amortization or write-off of any amounts thereof and (ii) the effect of changes in accounting principles or policies,

including, without limitation, the impact of changes relating to the initial adjustment of reserves and allowances under GAAP after transition from IFRS or Adidas' accounting policies and the impact of harmonizing accounting policies between Rockport and Drydock.

"**Consolidated Total Assets**" means, at any date, all amounts that would, in conformity with GAAP (or IFRS, as applicable), be set forth opposite the caption "total assets" (or any like caption) on a consolidated balance sheet of the applicable Person and its Subsidiaries at such date.

"**Consolidated Total Debt**" means, as at any date of determination, the aggregate principal amount of all funded Indebtedness described in clauses (a), (b), (c) and (d) of the definition of "Indebtedness" of Rockport Group and its Subsidiaries.

"**Continuing Directors**" means the directors of Holdings on the Closing Date, as elected or appointed after giving effect to the Transactions, and each other director, if, in each case, such other director's nomination for election to the board of directors of Holdings is recommended by a majority of the then Continuing Directors or such other director receives the vote of the Sponsor or Permitted Holders in his or her election by the stockholders of Holdings.

"**Contractual Obligation**" means, as applied to any Person, any provision of any Security issued by that Person or of any material indenture, mortgage, deed of trust, contract, undertaking, agreement or other instrument to which that Person is a party or by which it or any of its properties is bound or to which it or any of its properties is subject.

"**Contribution Agreement**" means that certain Amended and Restated Contribution Agreement, dated as of the Closing Date, by and between RGH, New Balance Holding, Inc., a Massachusetts corporation, certain management holders party thereto and Drydock.

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

"**Cortland**" means Cortland Capital Market Services LLC, a Delaware limited liability company.

"**Covenant Trigger Period**" means the period (a) commencing on the day that Excess Availability is less than the greater of (x) **10.0%** of the Line Cap at such time and (y) **$5,000,000** and (b) continuing until the first period of **thirty (30)** consecutive days, at all times during which Excess Availability for each day during such 30-day period has been greater than or equal to the greater of (x) **10.0%** of the Line Cap at such time and (y) **$5,000,000**.

"**Credit Card Agreement**" means each credit card agreement entered into by any Loan Party with a credit card issuer and/or credit card processor governing the credit card processing arrangements with such Loan Party, as the same may be amended, restated or otherwise modified from time to time.

"**Credit Card Acknowledgment**" means each Credit Card Acknowledgment, in form and substance satisfactory to the Administrative Agent, executed by the applicable Loan Party and acknowledged by such Loan Party's credit card issuers and/or credit card processors who are party to Credit Card Agreements, as the same may be amended, restated or otherwise modified from time to time.

"**Credit Card Receivables**" means each "payment intangible" (as defined in the UCC) or other "intangible" (as defined in the PPSA) under which the Account Debtor's principal obligation is a monetary obligation, together with all income, payments and proceeds thereof, in all cases due to a Loan

Party from, and owed by, a credit card issuer, debit card issuer, credit card processor, debit card processor or other third party electronic payment service provider to a Loan Party resulting from charges by a customer of a Loan Party in connection with the sale of goods by a Loan Party, or services performed by a Loan Party.

"**Credit Card Receivables Component**" means the face amount of Eligible Credit Card Receivables multiplied by **90.0%**.

"**Credit Extension**" means each of (i) the making of a Revolving Loan, Swingline Loan or Protective Advance and (ii) the issuance, amendment, modification, renewal or extension of any Letter of Credit (other than any such amendment, modification, renewal or extension that does not increase the stated amount of the relevant Letter of Credit).

"**Credit Facility**" means the Loans provided to or for the benefit of, and the Letters of Credit issued for the account of, any Borrower or any Subsidiary pursuant to the terms of this Agreement.

"**Crescent**" means Crescent Mezzanine Partners VI, L.P., Crescent Mezzanine Partners VIB (Cayman), L.P. and Crescent Mezzanine Partners VIC, L.P.

"**Cure Amount**" shall have the meaning assigned to such term in Section 6.18(b).

"**Cure Right**" has the meaning provided in Section 6.18(b).

"**Currency of Payment**" has the meaning provided in Section 9.22.

"**DDA**" means any checking, demand deposit or other account maintained by the Loan Parties and used to receive or deposit payments, checks and other funds from customers and other payors, other than any Excluded Account.

"**Debt Investment Fund**" means any affiliate of the Sponsor that is a bona fide debt fund or an investment vehicle that is engaged in the making, purchasing, holding or otherwise investing in commercial loans, bonds and similar extensions of credit in the ordinary course of business, in each case with respect to which the persons making investment decisions for such applicable affiliate are not primarily engaged in the making, acquiring or holding of equity investments in Holdings or any of its subsidiaries.

"**Debtor Relief Laws**" means the Bankruptcy Code of the United States, *the Bankruptcy and Insolvency Act* (Canada), *the Companies' Creditors Arrangement Act* (Canada), and the *Winding-Up and Restructuring Act* (Canada) and all other liquidation, conservatorship, bankruptcy, general assignment for the benefit of creditors, moratorium, rearrangement, receivership, insolvency, reorganization or similar debtor relief laws of the United States, Canada or other applicable jurisdictions from time to time in effect and affecting the rights of creditors generally.

"**Debt Transfer Agreement**" means that certain Debt Transfer and Contribution Agreement, dated as of the Closing Date, by and between New Balance and Drydock.

"**Default**" means any event or condition which upon notice, lapse of time or both would become an Event of Default.

"**Defaulting Lender**" means, subject to Section 2.22(f), any Lender that has (a) defaulted in its obligations under this Agreement, including without limitation, to make a Loan or to fund its participation

in a Letter of Credit, Swingline Loan or Protective Advance required to be made or funded by it hereunder, in each case, within two Business Days of the date such obligation arose or such Loan, Letter of Credit, Swingline Loan or Protective Advance was required to be made or funded unless such Lender notifies the Administrative Agent and the Borrower Representative in writing that such failure is the result of such Lender's determination that one or more conditions precedent to funding (each of which conditions precedent, together with any applicable default, shall be specifically identified in such writing) has not been satisfied, (b) notified the Administrative Agent, any Issuing Bank or Swingline Lender or a Loan Party in writing that it does not intend to satisfy any such obligation or has made a public statement to the effect that it does not intend to comply with its funding obligations under this Agreement or under agreements in which it commits to extend credit generally (unless such writing or public statement relates to such Lender's obligation to fund a Loan hereunder and states that such position is based on such Lender's determination that a condition precedent to funding (which condition precedent, together with any applicable default, shall be specifically identified in such writing or public statement) cannot be satisfied, (c) failed, within **three (3)** Business Days after the request of the Administrative Agent or the Borrower Representative, to confirm in writing that it will comply with the terms of this Agreement relating to its obligations to fund prospective Loans and participations in then outstanding Letters of Credit, Swingline Loans and Protective Advances; provided that such Lender shall cease to be a Defaulting Lender pursuant to this clause (c) upon receipt of such written confirmation by the Administrative Agent, (d) become (or any parent company thereof has become) insolvent or been determined by any Governmental Authority having regulatory authority over such Person or its assets, to be insolvent, or the assets or management of which has been taken over by any Governmental Authority, or (e) become the subject of a bankruptcy or insolvency proceeding, or has had a receiver, conservator, trustee, administrator, assignee for the benefit of creditors or similar Person charged with reorganization or liquidation of its business or custodian, appointed for it, or has taken any action in furtherance of, or indicating its consent to, approval of or acquiescence in, any such proceeding or appointment, unless in the case of any Lender subject to this clause (e), the Borrower Representative, the Administrative Agent, the Swingline Lender and each Issuing Bank shall each have determined that such Lender intends, and has all approvals required to enable it (in form and substance satisfactory to each of the Borrower Representative, the Administrative Agent, the Swingline Lender and each Issuing Bank), to continue to perform its obligations as a Lender hereunder; provided that a Lender shall not be deemed to be a Defaulting Lender solely by virtue of the ownership or acquisition of any Capital Stock in such Lender or its parent by a Governmental Authority so long as such ownership interest does not result in or provide such Lender with immunity from the jurisdiction of courts within the United States or Canada or from the enforcement of judgments or writs of attachment on its assets or permit such Lender (or such Governmental Authority) to reject, repudiate, disavow or disaffirm any contracts or agreements made with such Lender.

"**Deposit Account**" means a demand, time, savings, passbook or like account with a bank, savings and loan association, credit union or like organization, other than an account evidenced by a negotiable certificate of deposit.

"**Derivative Transaction**" means (a) any interest-rate transaction, including any interest-rate swap, basis swap, forward rate agreement, interest rate option (including a cap collar and floor), Swap Obligations, and any other instrument linked to interest rates that gives rise to similar credit risks (including when-issued securities and forward deposits accepted), (b) any exchange-rate transaction, including any cross-currency interest-rate swap, any forward foreign-exchange contract, any currency option, and any other instrument linked to exchange rates that gives rise to similar credit risks, (c) any equity derivative transaction, including any equity-linked swap, any equity-linked option, any forward equity-linked contract, and any other instrument linked to equities that gives rise to similar credit risk and (d) any commodity (including precious metal) derivative transaction, including any commodity-linked swap, any commodity-linked option, any forward commodity-linked contract, and any other instrument

linked to commodities that gives rise to similar credit risks; provided that no phantom stock or similar plan providing for payments only on account of services provided by current or former directors, officers, employees or consultants of Holdings or its subsidiaries shall be a Derivative Transaction.

"**Designated Non-Cash Consideration**" means the fair market value (as determined by the Borrower Representative in good faith) of non-Cash consideration received by the Borrower Representative or a Subsidiary in connection with a sale or disposition pursuant to Section 6.08(h) that is designated as Designated Non-Cash Consideration pursuant to a certificate of a Responsible Officer of the Borrower Representative, setting forth the basis of such valuation (which amount will be reduced by the amount of Cash or Cash Equivalents received in connection with a subsequent sale or conversion of such Designated Non-Cash Consideration to Cash or Cash Equivalents).

"**Disqualified Capital Stock**" means any Capital Stock which, by its terms (or by the terms of any security into which it is convertible or for which it is exchangeable), or upon the happening of any event, (i) matures (excluding any maturity as the result of an optional redemption by the issuer thereof) or is mandatorily redeemable (other than for Qualified Capital Stock), pursuant to a sinking fund obligation or otherwise, or is redeemable at the option of the holder thereof (other than for Qualified Capital Stock), in whole or in part, on or prior to **ninety-one (91)** days following the Latest Maturity Date at the time such Capital Stock is issued, (ii) is or becomes convertible into or exchangeable (unless at the sole option of the issuer thereof) for (a) debt securities or (b) any Capital Stock that would constitute Disqualified Capital Stock, in each case at any time on or prior to **ninety-one (91)** days following the Latest Maturity Date at the time such Capital Stock is issued, (iii) contains any mandatory repurchase obligation which may come into effect prior to the Latest Maturity Date or (iv) provides for the scheduled payments of dividends in Cash on or prior to **ninety-one (91)** days following the Latest Maturity Date at the time such Capital Stock is issued; provided that any Capital Stock that would not constitute Disqualified Capital Stock but for provisions thereof giving holders thereof (or the holders of any security into or for which such Capital Stock is convertible, exchangeable or exercisable) the right to require the issuer thereof to redeem such Capital Stock upon the occurrence of a change in control, IPO or an asset sale occurring prior to **ninety-one (91)** days following the Latest Maturity Date at the time such Capital Stock is issued shall not constitute Disqualified Capital Stock if such Capital Stock provides that the issuer thereof will not redeem any such Capital Stock pursuant to such provisions prior to the Latest Maturity Date.

Notwithstanding the preceding sentence, (A) if such Capital Stock is issued to any plan for the benefit of directors, officers, employees, members of management or consultants or by any such plan to such directors, officers, employees, members of management or consultants, in each case in the ordinary course of business of Rockport Group or any Subsidiary, such Capital Stock shall not constitute Disqualified Capital Stock solely because it may be required to be repurchased by the issuer thereof in order to satisfy applicable statutory or regulatory obligations and (B) no Capital Stock held by any future, present or former employee, director, officer, member of management or consultant (or their respective Affiliates or Immediate Family Members) of any Borrower (or any Parent Company or any Subsidiary) shall be considered Disqualified Capital Stock because such stock is redeemable or subject to repurchase pursuant to any management equity subscription agreement, stock option, stock appreciation right or other stock award agreement, stock ownership plan, put agreement, stockholder agreement or similar agreement that may be in effect from time to time.

"**Disqualified Institution**" means any Person identified by name in writing to the Administrative Agent and the Lenders prior to the Closing Date and, any other Person identified by name in writing to the Administrative Agent and the Lenders after the Closing Date to the extent such Person becomes a competitor or is or becomes an affiliate of a competitor of Holdings or its Subsidiaries, which designations shall become effective **two (2)** days after delivery of each such written supplement to the Administrative Agent and the Lenders, but which shall not apply retroactively to disqualify any Persons

that have previously acquired an assignment or participation interest in the Loans; provided that a "competitor" or an affiliate of a competitor shall not include any bona fide diversified debt fund or investment vehicle (other than a person disclosed in writing to the Administrative Agent prior to the Closing Date) that (a) is not an operating company or an affiliate of an operating company and (b) is engaged in making, purchasing, holding or otherwise investing in commercial loans and similar extensions of credit in the ordinary course of business which is not managed, sponsored or advised by any Person controlling, controlled by or under common control with such competitor or affiliate thereof, as applicable, and for which no personnel involved with the investment of such competitor or affiliate thereof, as applicable, (i) makes (or has the right to make or participate with others in making) any investment decisions of a competitor or (ii) has access to any information (other than information publicly available) relating to the Loan Parties or any entity that forms a part of the Loan Parties' business (including their subsidiaries).

"**Document**" has the meaning set forth in Article 9 of the UCC, or "document of title" as set forth in the PPSA, as applicable.

"**Dollar Equivalent**" means, on any date of determination, (a) with respect to any amount expressed in Euros, Sterling, Canadian Dollars, Yen or any other currency other than Dollars, the amount of Dollars that would be required to purchase the amount of such currency based upon the Spot Selling Rate as of such date of determination and (b) with respect to any amount expressed in Dollars, such amount.

"**Dollars**" or "**$**" refers to lawful money of the United States of America.

"**Domestic Subsidiary**" means any Subsidiary incorporated or organized under the laws of the United States of America, any State thereof or the District of Columbia.

"**Drydock**" has the meaning assigned to such term in the recitals to this Agreement.

"**Eligible Assignee**" means (a) a Lender, (b) a commercial bank, insurance company, finance company, financial institution, any fund that invests in loans or any other "accredited investor" (as defined in Regulation D of the Securities Act), (c) any Affiliate of a Lender or (d) an Approved Fund of a Lender; provided that in any event, "Eligible Assignee" shall not include (i) any natural person, (ii) any Defaulting Lender, (iii) any Disqualified Institution or (iv) (A) Holdings, Rockport Group or its Subsidiaries or (B) the Investors or any of their readily identifiable (on the basis of such Affiliate or Debt Investment Fund's name or as designated in writing by the Borrower Representative from time to time) Affiliates or Debt Investment Funds.

"**Eligible Credit Card Receivables**" means as of any date of determination, Credit Card Receivables due to a Loan Party which have been earned by performance by such Loan Party, that are not excluded as ineligible by virtue of one or more of the criteria set forth below. None of the following shall be deemed to be Eligible Credit Card Receivables:

(a) Credit Card Receivables which do not constitute a "payment intangible" (as defined in the UCC) or an "intangible" (as defined in the PPSA) under which the Account Debtor's principal obligation is a monetary obligation, or an "Account";

(b) Credit Card Receivables due from credit card processors that have been outstanding for more than **five (5)** Business Days from the date of sale, or for such longer period(s) as may be approved by the Administrative Agent in its reasonable discretion;

(c) Credit Card Receivables due from credit card processors with respect to which a Loan Party does not have good, valid and marketable title thereto, free and clear of any Lien (other than Liens granted to the Collateral Agent for its own benefit and the benefit of the other Secured Parties pursuant to the Collateral Documents, Permitted Encumbrances that do not have priority or Permitted Encumbrances having priority by applicable law, without limiting the ability of the Administrative Agent to change, establish or eliminate any Reserves in its Permitted Discretion on account of any such Permitted Encumbrances);

(d) Credit Card Receivables due from credit card processors that are not subject to a first priority (except as provided in clause (c), above) security interest or Lien in favor of the Collateral Agent for its own benefit and the benefit of the other Secured Parties;

(e) Credit Card Receivables due from credit card processors which are disputed, or with respect to which a claim, counterclaim, offset or chargeback (other than chargebacks in the ordinary course by the credit card processors) has been asserted, by the related credit card processor (but only to the extent of such dispute, counterclaim, offset or chargeback);

(f) except as otherwise approved by the Administrative Agent, Credit Card Receivables due from credit card processors as to which the credit card processor has the right under certain circumstances to require a Loan Party to repurchase the Credit Card Receivables from such credit card processor;

(g) which is acquired in connection with an acquisition permitted hereunder to the extent the Administrative Agent shall not have received a Report in respect of such Credit Card Receivables, which Report shows results reasonably satisfactory to the Administrative Agent; it being agreed that the Administrative Agent shall take such actions as are reasonably required to obtain such a Report (which Report shall be at the expense of the Borrowers and shall not be considered in any limitation on such Reports at the expense of the Borrowers provided in Section 5.06 or otherwise) promptly upon the request of any Loan Party; provided that Administrative Agent may, in its Permitted Discretion, determine to include such Credit Card Receivables as Eligible Credit Card Receivables prior to the receipt by Administrative Agent of such Report, without limiting the right of Administrative Agent to subsequently exclude such Credit Card Receivables based on the results of such Report; provided, further, that this clause (g) shall not exclude any Credit Card Receivables acquired in connection with an acquisition permitted hereunder if the inclusion of such Credit Card Receivables so acquired would not increase the aggregate amount of Eligible Credit Card Receivables by more than **5.0%**;

(h) which is not earned or does not represent the bona fide amount due to a Borrower from a credit card processor and/or credit card issuer that originated in the ordinary course of business of such Borrower;

(i) in which the payee of such Credit Card Accounts Receivable is a Person other than a Loan Party;

(j) with respect to which the applicable credit card issuer or credit card processor has (i) applied for, suffered, or consented to the appointment of any receiver, interim receiver, custodian, trustee, monitor, administrator, sequestrator or liquidator of its assets, (ii) has had possession of all or a material part of its property taken by any receiver, interim receiver, custodian, trustee, monitor, administrator, sequestrator or liquidator, (iii) filed, or had filed against it, any request or petition for liquidation, reorganization, arrangement, adjustment of debts, adjudication as bankrupt, winding-up, or voluntary or involuntary case under any state, provincial, territorial or federal bankruptcy laws, (iv) has

admitted in writing its inability, or is generally unable to, pay its debts as they become due, (v) become insolvent or (vi) ceased operation of its business;

(k) with respect to which any covenant, representation, or warranty contained in this Agreement or in the Pledge and Security Agreement relating to such Credit Card Accounts Receivable has been breached or is not true in all material respects;

(l) which is evidenced by "chattel paper" or an "instrument" of any kind unless such "chattel paper" or "instrument" is in the possession of the Administrative Agent, and to the extent necessary, endorsed to the Administrative Agent;

(m) which the Administrative Agent in its Permitted Discretion determines may not be paid by reason of the applicable credit card processor's or credit card issuer's inability to pay or which the Administrative Agent in its Permitted Discretion otherwise determines is unacceptable for any reason whatsoever; provided that this clause (m) shall not exclude Credit Card Receivables from Visa, MasterCard, American Express or Discover;

(n) which represents a deposit of partial payment in connection with the purchase of Inventory of a Borrower; or

(o) commencing sixty (60) days after the Closing Date, for which the Administrative Agent has not received a Credit Card Acknowledgment; provided that each Loan Party shall only be required to use commercially reasonable efforts to have such Loan Party's credit card issuers and/or credit card processors execute a Credit Card Acknowledgement;

"**Eligible Inventory**" means, at any time, all Inventory of the Loan Parties; provided that Eligible Inventory shall not include any Inventory (without duplication of any Reserves established in accordance with Section 2.24):

(a) which is not subject to a first priority perfected Lien in favor of the Administrative Agent (other than a Landlord Lien as to which a Landlord Lien Reserve applies) and other than Permitted Encumbrances (without limiting the ability of the Administrative Agent to change, establish or eliminate any Reserves in its Permitted Discretion in respect of such Permitted Liens) and, in the case of any Inventory located in any province or territory of Canada, with respect to which the Administrative Agent has not received a perfection opinion satisfactory to the Administrative Agent;

(b) which is unmerchantable, damaged, defective, obsolete, slow-moving, unfit for sale, raw materials, work in process, returned or rejected goods or custom orders;

(c) which does not conform in all material respects to the representations and warranties in respect of Inventory contained in this Agreement or the Pledge and Security Agreement;

(d) which is not owned only by one or more Loan Parties;

(e) which constitutes packaging, spare parts or supplies dedicated for internal use in the Loan Parties' business or bill-and-hold goods;

(f) which is not located in the U.S. or Canada or is in transit with a common carrier from vendors or suppliers; provided that Inventory in transit between locations of any Loan Party may be included as Eligible Inventory; provided, further, that, up to $20,000,000 of Inventory in transit from

vendors or suppliers may be included as Eligible Inventory despite the foregoing provision of this clause (f) so long as

(i) upon the reasonable request of the Administrative Agent, the Administrative Agent shall have received a true and correct copy of the bill of lading and other shipping documents for such Inventory,

(ii) the Administrative Agent shall have received the evidence of satisfactory casualty insurance naming the Administrative Agent as loss payee and otherwise covering such risks as the Administrative Agent may reasonably request,

(iii) if the bill of lading is non-negotiable the inventory must be in transit within the United States and the Administrative Agent shall have received, a duly executed Collateral Access Agreement from the applicable common carrier or freight forwarder for such Inventory,

(iv) if the bill of lading is negotiable, the inventory must be in transit from outside the United States and the Administrative Agent shall have received confirmation that the bill is issued in the name of the applicable Loan Party and consigned to the order of the Administrative Agent , and an acceptable agreement has been executed with the applicable Loan Party's customs broker, in which the customs broker agrees that it holds the negotiable bill as agent for the Administrative Agent and has granted the Administrative Agent access to the Inventory,

(v) the common carrier is not an Affiliate of the applicable vendor or supplier, and

(vi) the customs broker is not an Affiliate of Holdings or any of its Subsidiaries;

(g) following the date which is **ninety (90)** days from the Closing Date (or such later date as agreed to by the Administrative Agent), which is located at any Specified Location leased by a Loan Party (other than retail stores in Canada), unless (i) the lessor has delivered to the Administrative Agent a Collateral Access Agreement as to such location or (ii) a Landlord Lien Reserve with respect to such location has been established in accordance with Section 2.24;

(h) following the date which is **ninety (90)** days from the Closing Date (or such later date as agreed to by the Administrative Agent), which is located in any third party warehouse or is in the possession of a bailee (other than a third party processor) at a Specified Location and is not evidenced by a Document, unless (i) such warehouseman or bailee has delivered to the Administrative Agent a Collateral Access Agreement and such other documentation as the Administrative Agent may reasonably require or (ii) a Landlord Lien Reserve has been established in accordance with Section 2.24);

(i) which is being processed offsite by a third party at a third party location or outside processor;

(j) which is the subject of a consignment by any Loan Party as consignor or consignee;

(k) it is the subject of a bill of lading or other document of title (other than Inventory that is in transit from vendors or suppliers);

(l) which contains or bears any company-specific labels, branded ticks, or intellectual property rights licensed to any Loan Party pursuant to a license with any Person other than a Loan Party unless the Administrative Agent may sell or otherwise dispose of such Inventory without (i) infringing the rights of such licensor, (ii) violating any contract with such licensor, or (iii) incurring any liability with respect to payment of royalties other than royalties incurred pursuant to sale of such Inventory under the current licensing agreement relating thereto;

(m) which is not reflected in a current perpetual inventory report of any Borrower and its Subsidiaries; or

(n) which is acquired in connection with an acquisition permitted hereunder to the extent the Administrative Agent shall not have received a Report in respect of such Inventory, which Report shows results reasonably satisfactory to the Administrative Agent; it being agreed that the Administrative Agent shall take such actions as are reasonably required to obtain such a Report (which Report shall be at the expense of the Borrowers and shall not be considered in any limitation on such Reports at the expense of the Borrowers provided in Section 5.06 or otherwise) promptly upon the request of any Loan Party; provided that Administrative Agent may, in its Permitted Discretion, determine to include such Inventory as Eligible Inventory prior to the receipt by Administrative Agent of such Report, without limiting the right of Administrative Agent to subsequently exclude such Inventory based on the results of such Report; provided, further, that this clause (n) shall not exclude any Inventory acquired in connection with an acquisition permitted hereunder if the inclusion of such Inventory so acquired would not increase the aggregate amount of Eligible Inventory by more than **5.0%**.

"**Eligible Trade Accounts Receivable**" means, at any time, all Accounts, other than Credit Card Receivables, due to any Loan Party arising from the sale of goods of the Loan Parties or the provision of services by one or more Loan Parties in the ordinary course of business; provided that Eligible Trade Accounts Receivable shall not include any Account (without duplication of any Reserves established in accordance with Section 2.24):

(a) which is not subject to a first priority perfected security interest and Lien in favor of the Administrative Agent (other than Permitted Encumbrances that do not have priority over Liens created under the Collateral Documents or Permitted Encumbrances having such priority by applicable law, without limiting the ability of the Administrative Agent to change, establish or eliminate any Reserves in its Permitted Discretion on account of any such Permitted Encumbrances);

(b) with respect to which more than **one hundred twenty (120)** days have elapsed from the original invoice date thereof or which is more than **sixty (60)** days past due after the original due date;

(c) which is owing by an Account Debtor for which **50.0%** or more of the Accounts owing from such Account Debtor and its Affiliates are ineligible pursuant to clause (b) above;

(d) which is owing by an Account Debtor to the extent the aggregate amount of Accounts owing from such Account Debtor and its Affiliates to the Loan Parties exceeds **20.0%** (or such higher percentage as the Administrative Agent may have established from time to time in its Permitted Discretion) of the aggregate Eligible Trade Accounts Receivable (or, solely with respect to Accounts owing to Canadian Loan Parties by Hudson's Bay Company in Canada, (i) on or prior to the first anniversary of the Closing Date, **40.0%** or (ii) at all times after the first anniversary of the Closing Date, **30.0%** or, in each case, such higher percentage as the Administrative Agent may have established from time to time in its Permitted Discretion) of the aggregate Eligible Trade Accounts Receivable of the Canadian Loan Parties;

(e) which does not conform in all material respects to the representations and warranties in respect of Accounts contained in this Agreement or in the Pledge and Security Agreement;

(f) which (i) does not arise from the sale of goods or performance of services in the ordinary course of business, (ii) represents a progress billing, (iii) is contingent upon the Loan Parties' completion of any further performance, (iv) represents a sale on a bill-and-hold, guaranteed sale, sale-and-return, sale on approval, consignment, Cash-on-delivery or any other repurchase or return basis, (v) relates to payments of interest, fees or late charges, (vi) is not invoiced or evidenced by other documentation reasonably satisfactory to the Administrative Agent (in its Permitted Discretion) which has been sent to the Account Debtor or which is a duplicate invoice or (vii) relates to a sale to a Person for personal, family or household purposes;

(g) for which (i) the goods giving rise to such Account have not been shipped and billed to the Account Debtor (except to the extent the applicable Loan Party has shipped such goods in accordance with the written instructions of such Account Debtor and such Account Debtor has agreed in writing that such shipment constitutes delivery of such goods by such Loan Party, in each case, in form and substance reasonably satisfactory to the Administrative Agent) or (ii) the services giving rise to such Account have not been performed and billed to the Account Debtor;

(h) which is owed by an Account Debtor which has (i) applied for, suffered, or consented to the appointment of any receiver, custodian, trustee or liquidator of its assets, (ii) had possession of all or a material part of its property taken by any receiver, custodian, trustee or liquidator, (iii) filed, or had filed against it, any request or petition for liquidation, reorganization, arrangement, adjustment of debts, adjudication as bankrupt, winding-up, or voluntary or involuntary case under any Debtor Relief laws, (iv) admitted in writing its inability, or is generally unable to, pay its debts as they become due, (v) become insolvent, or (vi) ceased operation of its business, unless, in the case of clauses (h)(iii) through (h)(vi) above, such Account Debtor has caused the issuance of a letter of credit in favor of the applicable Loan Party fully securing the payment of such Account, which letter of credit is reasonably satisfactory to the Administrative Agent;

(i) which is owed by any Account Debtor which has sold all or substantially all of its assets, unless such Account Debtor has caused the issuance of a letter of credit in favor of the applicable Loan Party fully securing the payment of such Account, which letter of credit is reasonably satisfactory to the Administrative Agent;

(j) which is owed by an Account Debtor which (i) does not maintain its chief executive office in the U.S. or Canada or (ii) is not organized under applicable law of the U.S. or Canada or any state or province or territory thereof unless, in any case, such Account is (x) backed by a letter of credit reasonably acceptable to the Administrative Agent which is in the possession of, has been assigned to and is directly drawable by the Administrative Agent or (y) covered by credit insurance reasonably acceptable to the Administrative Agent; provided that up to **$5,000,000** of such Accounts backed by a letter of credit reasonably acceptable to the Administrative Agent may be included as Eligible Trade Accounts Receivable despite the requirement of clause (x) above;

(k) which is owed in any currency other than U.S. Dollars or Canadian Dollars;

(l) Accounts in an aggregate amount exceeding **$1,000,000** which are owed by (i) the government (or any department, agency, public corporation or instrumentality thereof) of any country other than the U.S. or Canada unless such Account is (x) backed by a letter of credit reasonably acceptable to the Administrative Agent and, if requested by the Administrative Agent, which is in the possession of the Administrative Agent or (y) covered by credit insurance reasonably acceptable to the

Administrative Agent, or (ii) the government of the U.S., or any department, agency, public corporation or instrumentality thereof, unless the Federal Assignment of Claims Act of 1940, as amended (31 U.S.C. § 3727 *et seq.* and 41 U.S.C. § 15 *et seq.*) has been complied with, or (iii) the government of Canada or any department, agency crown corporation or instrumentality thereof unless the Financial Administration Act (Canada) or any similar applicable law has been complied with;

(m) which is owed by any Affiliate, employee, officer, director, agent or stockholder of any Loan Party;

(n) which is owed by an Account Debtor or any Affiliate of such Account Debtor to which any Loan Party is indebted, including for exclusivity contract payments (but only to the extent of such indebtedness) or is subject to any security, deposit, progress payment, retainage or other similar advance made by or for the benefit of an Account Debtor, in each case only to the extent thereof;

(o) which is subject to any chargeback, counterclaim, deduction, defense, setoff or dispute notice of which is provided to any Borrower or any of its Subsidiaries but only to the extent of any such counterclaim, deduction, defense, setoff or dispute; provided that no Account that otherwise constitutes an Eligible Trade Accounts Receivable shall be rendered ineligible by virtue of this clause (o) to the extent, but only to the extent, that the Account Debtor's right of setoff is limited by an enforceable agreement that is reasonably satisfactory to the Administrative Agent;

(p) which is evidenced by any promissory note, chattel paper or instrument;

(q) which does not comply in all material respects with the requirements of all applicable laws and regulations, whether federal, state, provincial, territorial or local;

(r) which the Administrative Agent determines in its Permitted Discretion may not be paid by reason of the Account Debtor's inability to pay; or

(s) which is acquired in connection with an acquisition permitted hereunder to the extent the Administrative Agent shall not have received a Report in respect of such Account, which Report shows results reasonably satisfactory to the Administrative Agent; it being agreed that the Administrative Agent shall take such actions as are reasonably required to obtain such a Report (which Report shall be at the expense of the Borrowers and shall not be considered in any limitation on such Reports at the expense of the Borrowers provided in Section 5.06 or otherwise) promptly upon the request of the Borrower Representative; provided that Administrative Agent may, in its Permitted Discretion, determine to include such Accounts as Eligible Trade Accounts Receivable prior to the receipt by Administrative Agent of such Report, without limiting the right of Administrative Agent to subsequently exclude such Accounts based on the results of such Report; provided, further, that this clause (s) shall not exclude any Accounts acquired in connection with an acquisition permitted hereunder to the extent the inclusion of such Accounts so acquired would not increase the aggregate amount of Eligible Trade Accounts Receivable by more than **5.0%**.

"**Environmental Claim**" means any investigation, notice, notice of violation, claim, action, suit, proceeding, demand, abatement order or other order or directive (conditional or otherwise), by any Governmental Authority or any other Person, arising (a) pursuant to or in connection with any actual or alleged violation of any Environmental Law; (b) in connection with any Hazardous Material or any actual or alleged Hazardous Materials Activity; or (c) in connection with any actual or alleged damage, injury, threat or harm to health, safety, natural resources or the environment.

"**Environmental Laws**" means any and all current or future foreign or domestic, federal, provincial, territorial or state (or any subdivision of either of them), statutes, ordinances, orders, rules, regulations, judgments, Governmental Authorizations, or any other applicable requirements of Governmental Authorities and the common law relating to (a) environmental matters, including those relating to any Hazardous Materials Activity; or (b) the generation, use, storage, transportation or disposal of or exposure to Hazardous Materials, in any manner applicable to any Borrower or any of its Subsidiaries or any Facility.

"**Environmental Liability**" means any liability, contingent or otherwise (including any liability for damages, costs of environmental remediation, fines, penalties or indemnities), of any Borrower or any Subsidiary directly or indirectly resulting from or based upon (a) violation of any Environmental Law, (b) the generation, use, handling, transportation, storage, treatment or disposal of any Hazardous Materials, (c) exposure to any Hazardous Materials, (d) the Release or threatened Release of any Hazardous Materials into the environment or (e) any contract, agreement or other consensual arrangement pursuant to which liability is assumed or imposed with respect to any of the foregoing.

"**Equity Contribution**" has the meaning assigned to such term in the recitals to this Agreement.

"**ERISA**" means the Employee Retirement Income Security Act of 1974, as amended from time to time, and any successor thereto.

"**ERISA Affiliate**" means, as applied to any Person, (a) any corporation which is a member of a controlled group of corporations within the meaning of Section 414(b) of the Code of which that Person is a member; and (b) any trade or business (whether or not incorporated) which is a member of a group of trades or businesses under common control within the meaning of Section 414(c) of the Code of which that Person is a member.

"**ERISA Event**" means (a) a "reportable event" within the meaning of Section 4043 of ERISA and the regulations issued thereunder with respect to any U.S. Pension Plan (excluding those for which the 30-day notice period has been waived); (b) the failure to meet the minimum funding standard of Section 412 of the Code with respect to any U.S. Pension Plan; (c) the provision by the administrator of any U.S. Pension Plan pursuant to Section 4041(a)(2) or Section 302 of ERISA of a notice of intent to terminate such plan in a distress termination described in Section 4041(c) of ERISA; (d) the withdrawal by any Borrower, any of its Subsidiaries or any of their respective ERISA Affiliates from any U.S. Pension Plan with two or more contributing sponsors or the termination of any such U.S. Pension Plan resulting in liability to any Borrower, any of its Subsidiaries or any of their respective Affiliates pursuant to Section 4063 or 4064 of ERISA; (e) the institution by the PBGC of proceedings to terminate any U.S. Pension Plan, or the appointment of a trustee to administer any U.S. Pension Plan; (f) the imposition of liability on any Borrower, any of its Subsidiaries or any of their respective ERISA Affiliates pursuant to Section 4062(e) or 4069 of ERISA or by reason of the application of Section 4212(c) of ERISA; (g) a complete or partial withdrawal (within the meaning of Sections 4203 and 4205 of ERISA) of any Borrower, any of its Subsidiaries or any of their respective ERISA Affiliates from any Multiemployer Plan if there is any liability therefor under Title IV of ERISA, or the receipt by any Borrower, any of its Subsidiaries or any of their respective ERISA Affiliates of notice from any Multiemployer Plan that it is in reorganization or insolvency pursuant to Section 4241 or 4245 of ERISA, or that it intends to terminate or has terminated under Section 4041A or 4042 of ERISA; or (h) the occurrence of an act or omission which could reasonably be expected to give rise to the imposition on any Borrower, any of its Subsidiaries or any of their respective ERISA Affiliates of fines, penalties, excise taxes or related charges under Chapter 43 of the Code or under Section 409, Section 502(c), (i) or (l), or Section 4071 of ERISA in respect of any U.S. Pension Plan; or (i) the incurrence of liability or the imposition of a Lien pursuant

to Section 436 or 430(k) of the Code or pursuant to ERISA with respect to any Pension Plan, other than for PBGC premiums due but not delinquent.

"**Event of Default**" has the meaning assigned to such term in Article 7.

"**Excess Amount**" has the meaning assigned to such term in Section 2.05(b).

"**Excess Availability**" means, at any time, an amount equal to (a) the Line Cap, *minus* (b) the Total Revolving Exposure at such time.

"**Exchange Act**" means the Securities Exchange Act of 1934 and the rules and regulations of the SEC promulgated thereunder.

"**Excluded Accounts**" means accounts (a) established (or otherwise maintained) by the Loan Parties that do not have cash balances at any time exceeding **$1,000,000** in the aggregate for all such accounts, (b) solely containing Cash allocated as proceeds of the sale of Note Collateral pursuant to the Intercreditor Agreement, (c) any Trust Fund Account, (d) used by the Loan Parties exclusively for disbursements and payments in the ordinary course of business that are zero balance accounts, (e) payroll and other employee wage and benefit accounts, tax accounts (including sales tax accounts), escrow accounts, fiduciary or trust accounts or (f) that are located outside of the United States or Canada and solely containing Cash or proceeds from sales to foreign customers.

"**Excluded Subsidiary**" means (a) any Domestic Subsidiary that is not a Wholly Owned Subsidiary, (b) any Immaterial Subsidiary, (c) any Domestic Subsidiary that is prohibited by law, regulation or contractual obligations from providing a Loan Guaranty or that would require a governmental (including regulatory) consent, approval, license or authorization to provide such Loan Guaranty, (d) any not-for-profit Subsidiary, (e) any Captive Insurance Subsidiaries, (f) any special purpose entities used for securitization facilities, (g) any Foreign Subsidiary Holdco, (h) any direct or indirect Domestic Subsidiary of a Foreign Subsidiary or Foreign Subsidiary Holdco, (i) any Foreign Subsidiary (other than the Canadian Borrower, any other Canadian Loan Party or any Subsidiary that owns any Capital Stock of the Canadian Borrower) and (j) any other Domestic Subsidiary with respect to which, in the reasonable judgment of the Administrative Agent and the Borrower Representative, the burden or cost (including material adverse tax consequences, as reasonably determined by the Borrower Representative in good faith in consultation with the Administrative Agent) of providing a Loan Guaranty or a Lien to secure such Loan Guaranty shall outweigh the benefits to be afforded thereby.

"**Excluded Swap Obligation**" means, with respect to any Loan Guarantor, any Swap Obligation if, and to the extent that, all or a portion of the Loan Guaranty of such Loan Guarantor of, or the grant by such Loan Guarantor of a security interest under the Loan Documents to secure, such Swap Obligation (or any Loan Guaranty thereof) is or becomes illegal under the Commodity Exchange Act or any rule, regulation or order of the Commodity Futures Trading Commission (or the application or official interpretation of any thereof) by virtue of such Loan Guarantor's failure for any reason to constitute an "eligible contract participant" as defined in the Commodity Exchange Act and the regulations thereunder at the time the Loan Guaranty of such Loan Guarantor or the grant of such security interest becomes effective with respect to such Swap Obligation. If a Swap Obligation arises under a master agreement governing more than one swap, such exclusion shall apply only to the portion of such Swap Obligation that is attributable to swaps for which such Loan Guaranty or security interest is or becomes illegal.

"**Excluded Taxes**" means, with respect to Administrative Agent, any Lender, any Issuing Bank or any other recipient of any payment to be made by or on account of any obligation of any Borrower or any other Loan Party hereunder, (a) Taxes imposed on (or measured by) its net income (however

denominated), franchise Taxes, and branch profits taxes, in each case, (i) by the jurisdiction under the laws of which such recipient is organized or in which its principal office is located or, in the case of any Lender, in which its applicable lending office is located or (ii) that are Other Connection Taxes, (b) in the case of a Lender, any U.S. or Canadian federal withholding tax that is imposed on amounts payable to such Lender pursuant to a law in effect on the date on which such Lender becomes a party to this Agreement or designates a new lending office (other than pursuant to an assignment request by the Borrower Representative under Section 2.19(b)), except to the extent that such Lender (or its assignor, if any) was entitled, at the time of designation of a new lending office (or assignment), to receive additional amounts from any Borrower or any other Loan Party with respect to such withholding tax pursuant to Section 2.17(a), (c) any Tax imposed as a result of a Lender's failure to comply with Section 2.17(f), (d) any U.S. federal withholding tax under FATCA, (e) any Taxes arising as a result of any Lender or Issuing Bank not dealing at arm's length (within the meaning of the Income Tax Act (Canada)) with any Canadian Borrower and (f) any Taxes as a result of the Lender or Issuing Bank being a "specified shareholder" (within the meaning of subsection 18(5) of the Income Tax Act (Canada) of the Canadian Borrower or not dealing at arm's length with such specified shareholder of the Canadian Borrower.

"**Existing Credit Agreement**" means that certain Revolving Credit Agreement, dated as of May 16, 2011, by and between Drydock, as borrower, and New Balance, as lender, as amended.

"**Existing Debt Refinancing**" means the repayment, redemption, defeasance, discharge, refinancing or termination in full of all amounts, if any, due or owing under the Existing Credit Agreement (except to the extent of any Existing Letters of Credit but solely to the extent such Existing Letters of Credit are cash collateralized or backstopped pursuant to arrangements reasonably satisfactory to the Administrative Agent) and the termination of all commitments thereunder.

"**Existing Letter of Credit**" means any letter of credit previously issued that (a) will remain outstanding on and after the Closing Date and (b) is listed on Schedule 1.01(b).

"**Extended Revolving Credit Commitment**" has the meaning assigned to such term in Section 2.25(a)(ii).

"**Extended Revolving Loans**" has the meaning assigned to such term in Section 2.25(a)(ii).

"**Extension**" has the meaning assigned to such term in Section 2.25(a).

"**Extension Offer**" has the meaning assigned to such term in Section 2.25(a).

"**Facility**" means any real property (including all buildings, fixtures or other improvements located thereon) now, hereafter or, except with respect to Articles 5 and 6, heretofore owned, leased, operated or used by any Borrower or any of its Subsidiaries or any of their respective predecessors or Affiliates.

"**FATCA**" means Sections 1471 through 1474 of the Code, as of the date of this Agreement (or any amended or successor version that is substantively comparable and not materially more onerous to comply with), any current or future regulations or official interpretations thereof, and any agreements entered into pursuant to Section 1471(b)(1) of the Code.

"**Federal Funds Effective Rate**" means, for any day, the weighted average of the rates on overnight Federal funds transactions with members of the Federal Reserve System arranged by Federal funds brokers, as published on the next succeeding Business Day by the Federal Reserve Bank of New York, or, if such rate is not so published for any day that is a Business Day, the average of the quotations

for such day for such transactions received by Administrative Agent from three Federal funds brokers of recognized standing selected by it.

"**Fee Letter**" means that certain Fee Letter, dated as of January 23, 2015, by and among, *inter alia*, Rockport Group and the Arranger.

"**Financial Officer**" of any Person means the chief financial officer, the treasurer, any assistant treasurer, any vice president of finance or the controller of such Person or any officer with substantially equivalent responsibilities.

"**Financial Officer Certification**" means, with respect to the financial statements for which such certification is required, the certification of a Financial Officer of the Borrower Representative that such financial statements fairly present, in all material respects, in accordance with GAAP, the financial condition of the Borrower Representative and its Subsidiaries as at the dates indicated and the results of their operations and their cash flows for the periods indicated, subject to changes resulting from audit and normal year-end adjustments.

"**Financial Plan**" has the meaning assigned to such term in Section 5.01(i).

"**First Priority**" means, with respect to any Lien purported to be created in any Collateral pursuant to any Collateral Document, that, subject to the Intercreditor Agreement, such Lien is senior in priority to any other Lien to which such Collateral is subject, other than any Permitted Lien.

"**Fiscal Month**" has the meaning assigned to such term in Section 5.01(m).

"**Fiscal Quarter**" means a fiscal quarter of any Fiscal Year.

"**Fiscal Year**" means the fiscal year of Holdings ending on December 31 of each calendar year.

"**Fitch**" means Fitch Ratings, Ltd., a division of Fitch, Inc., and any successor to its rating agency business.

"**Fixed Charge Coverage Ratio**" means, for any period, the ratio of (a) Consolidated EBITDA *minus* Consolidated Capital Expenditures (except such expenditures financed with Indebtedness other than Loans) during such period to (b) Fixed Charges, in each case, calculated for Rockport Group and its Subsidiaries on a consolidated basis in accordance with IFRS (or GAAP, as applicable).

"**Fixed Charges**" means, with reference to any period, without duplication, the sum of (a) Consolidated Cash Interest Expense, *plus* (b) the aggregate amount of scheduled principal payments in respect of Indebtedness for borrowed money of Rockport Group and its Subsidiaries paid or payable in Cash during such period (other than payments made by Rockport Group or any Subsidiary to Rockport Group or any Subsidiary), *plus* (c) the aggregate amount of federal, state, provincial, territorial, local and foreign income taxes paid or payable in Cash during such period (including without limitation Tax Distributions), *plus* (d) scheduled payments in respect of Capital Leases paid or payable in Cash during such period, *plus* (e) Restricted Payments in the form of dividends to the holders of Equity Interests of Holdings to the extent such payments exceed **$10,000,000**, all calculated for such period for Rockport Group and its Subsidiaries on a consolidated basis.

Notwithstanding anything to the contrary, it is agreed, that for the purpose of calculating the Fixed Charge Coverage Ratio, for any period that includes, the Fiscal Quarter ended on or about September 30, 2014, the Fiscal Quarter ended on or about December 31, 2014, the Fiscal Quarter ended

on or about March 31, 2015 or the Fiscal Quarter ended on or about June 30, 2015, Fixed Charges set forth in clauses (a) through (d) above shall be calculated on an annualized basis.

"**Flood Hazard Property**" means any Real Estate Asset subject to a Mortgage and located in an area designated by the Federal Emergency Management Agency as having special flood or mud slide hazards.

"**Foreign Lender**" means a Lender that is not a "United States person" within the meaning of Section 7701(a)(30) of the Code.

"**Foreign Subsidiary**" means any Subsidiary that is not a Domestic Subsidiary.

"**Foreign Subsidiary Holdco**" means any Subsidiary incorporated or organized under the laws of the United States of America, any State thereof or the District of Columbia substantially all of the assets of which consist of Capital Stock or indebtedness of one or more Foreign Subsidiaries.

"**Funding Account**" has the meaning assigned to such term in Section 2.03(vi).

"**GAAP**" means generally accepted accounting principles in the United States of America in effect and applicable to the accounting period in respect of which reference to GAAP is being made, subject to the provisions of Section 1.04.

"**GoldPoint Entities**" means NYLCAP Mezzanine Partners III, LP, NYLCAP Mezzanine Partners III Parallel Fund, LP and NYLCAP Mezzanine Partners III 2012 Co-Invest, LP.

"**Governmental Authority**" means any federal, state, provincial, territorial, municipal, national or other government, governmental department, commission, board, bureau, court, agency or instrumentality or political subdivision thereof or any entity or officer exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to any government or any court, in each case whether associated with a state or locality of the United States, the United States, Canada or a foreign government.

"**Governmental Authorization**" means any permit, license, authorization, plan, directive, consent order or consent decree of or from any Governmental Authority.

"**Granting Lender**" has the meaning assigned to such term in Section 9.05(e).

"**Guarantee**" of or by any Person (the "**Guarantor**") means any obligation, contingent or otherwise, of the Guarantor guaranteeing or having the economic effect of guaranteeing any Indebtedness or other monetary obligation of any other Person (the "**Primary Obligor**") in any manner, whether directly or indirectly, and including any obligation of the Guarantor, direct or indirect, (a) to purchase or pay (or advance or supply funds for the purchase or payment of) such Indebtedness or other monetary obligation or to purchase (or to advance or supply funds for the purchase of) any security for the payment thereof, (b) to purchase or lease property, securities or services for the purpose of assuring the owner of such Indebtedness or other monetary obligation of the payment thereof, (c) to maintain working capital, equity capital or any other financial statement condition or liquidity of the Primary Obligor so as to enable the Primary Obligor to pay such Indebtedness or other monetary obligation, (d) as an account party in respect of any letter of credit or letter of guaranty issued to support such Indebtedness or monetary obligation, (e) entered into for the purpose of assuring in any other manner the obligee in respect of such Indebtedness or other monetary obligation of the payment or performance thereof or to protect such obligee against loss in respect thereof (in whole or in part) or (f) secured by any Lien on any assets of

such Guarantor securing any Indebtedness or other monetary obligation of any other Person, whether or not such Indebtedness or monetary other obligation is assumed by such Guarantor (or any right, contingent or otherwise, of any holder of such Indebtedness to obtain any such Lien); provided that the term "Guarantee" shall not include endorsements for collection or deposit in the ordinary course of business, or customary and reasonable indemnity obligations in effect on the Closing Date or entered into in connection with any acquisition or disposition of assets permitted under this Agreement (other than such obligations with respect to Indebtedness). The amount of any Guarantee shall be deemed to be an amount equal to the stated or determinable amount of the related primary obligation, or portion thereof, in respect of which such Guarantee is made or, if not stated or determinable, the maximum reasonably anticipated liability in respect thereof as determined by the guaranteeing Person in good faith.

"**Guaranteed Obligations**" has the meaning assigned to such term in Section 10.01.

"**Guarantor**" has the meaning set forth in the definition of "Guarantee."

"**Guarantor Percentage**" has the meaning assigned to such term in Section 10.11.

"**Hazardous Materials**" means any chemical, material, substance or waste, or any constituent thereof, exposure to which is prohibited, limited or regulated by any Environmental Law or any Governmental Authority or which poses a hazard to the indoor or outdoor environment.

"**Hazardous Materials Activity**" means any past, current, proposed or threatened activity, event or occurrence involving any Hazardous Material, including the use, manufacture, possession, storage, holding, presence, existence, location, Release, threatened Release, discharge, placement, generation, transportation, processing, construction, treatment, abatement, removal, remediation, disposal, disposition or handling of any Hazardous Material, and any corrective action or response action with respect to any of the foregoing.

"**Hedge Agreement**" means any agreement with respect to any Derivative Transaction between any Borrower or any Subsidiary and any other Person.

"**Hedging Obligations**" means, with respect to any Person, the obligations of such Person under any Hedge Agreement.

"**Holdings**" has the meaning assigned to such term in the preamble to this Agreement and shall include any permitted successor and assign thereof and thereto under Section 6.16.

"**IFRS**" means international accounting standards within the meaning of the IAS Regulation 1606/2002, as in effect from time to time (subject to the provisions of Section 1.04), to the extent applicable to the relevant financial statements.

"**Immaterial Subsidiary**" means, as of any date, any Subsidiary of Rockport Group (a) having Consolidated Total Assets in an amount of less than **2.50%** of Consolidated Total Assets of Rockport Group and its subsidiaries and (b) contributing less than **2.50%** of the consolidated revenues of Rockport Group and its subsidiaries, in each case, for the most recently ended Test Period for which financial statements have been delivered pursuant to Section 5.01(b) or (c); provided that the Consolidated Total Assets and revenues (as so determined) of all Immaterial Subsidiaries shall not exceed **5.00%** of Consolidated Total Assets of Rockport Group and its subsidiaries or **5.00%** of the consolidated revenues of Rockport Group and its subsidiaries for the relevant Test Period, as the case may be.

"**Immediate Family Member**" means with respect to any individual, such individual's child, stepchild, grandchild or more remote descendant, parent, stepparent, grandparent, spouse, former spouse, domestic partner, former domestic partner, sibling, mother-in-law, father-in-law, son-in-law and daughter-in-law (including adoptive relationships) and any trust, partnership or other bona fide estate-planning vehicle the only beneficiaries of which are any of the foregoing individuals (or such individual's estate, executor, administrator, heirs or legatees) or any private foundation or fund that is controlled by any of the foregoing individuals or any donor-advised fund of which any such individual is the donor.

"**Indebtedness**", as applied to any Person, means, without duplication, (a) all indebtedness for borrowed money; (b) that portion of obligations with respect to Capital Leases that is properly classified as a liability on a balance sheet in conformity with GAAP; (c) all obligations of such Person evidenced by bonds, debentures, notes or similar instruments to the extent the same would appear as a liability on a balance sheet prepared in accordance with GAAP; (d) any obligation owed for all or any part of the deferred purchase price of property or services (excluding (w) any earn out obligation or purchase price adjustment until such obligation becomes a liability on the balance sheet in accordance with GAAP, (x) other than for purposes of Section 7.01, any such obligations incurred under ERISA, (y) accrued expenses and trade accounts payable in the ordinary course of business (including on an inter-company basis) and (z) liabilities associated with customer prepayments and deposits), which purchase price is (i) due more than **six (6) months** from the date of incurrence of the obligation in respect thereof or (ii) evidenced by a note or similar written instrument; (e) all Indebtedness of others secured by any Lien on any property or asset owned or held by that Person regardless of whether the indebtedness secured thereby shall have been assumed by that Person or is non-recourse to the credit of that Person; (f) the face amount of any letter of credit issued for the account of that Person or as to which that Person is otherwise liable for reimbursement of drawings; (g) the Guarantee by such Person of the Indebtedness of another; (h) all obligations of such Person in respect of any Disqualified Capital Stock; and (i) all net obligations of such Person in respect of any Derivative Transaction, including any Hedge Agreement, whether or not entered into for hedging or speculative purposes; provided that (i) in no event shall obligations under any Derivative Transaction be deemed "Indebtedness" for any calculation of the Fixed Charge Coverage Ratio or any other financial ratio under this Agreement except to the extent of (x) unpaid termination amounts thereunder, (y) settlements thereunder or (z) any accrued interest in respect of either thereof and (ii) the amount of Indebtedness of any Person for purposes of clause (e) shall be deemed to be equal to the lesser of (A) the aggregate unpaid amount of such Indebtedness and (B) the fair market value of the property encumbered thereby as determined by such Person in good faith. For all purposes hereof, the Indebtedness of any Person shall include the Indebtedness of any partnership or joint venture (other than a joint venture that is itself a corporation or limited liability company) in which such Person is a general partner or a joint venturer, except to the extent such Person's liability for such Indebtedness is otherwise limited and only to the extent such Indebtedness would otherwise be included in the calculation of Consolidated Total Debt; provided that notwithstanding anything herein to the contrary, Indebtedness shall not include, and shall be calculated without giving effect to, the effects of Accounting Standards Codification Topic 815 and related interpretations to the extent such effects would otherwise increase or decrease an amount of Indebtedness for any purpose hereunder as a result of accounting for any embedded derivatives created by the terms of such Indebtedness; and any such amounts that would have constituted Indebtedness hereunder but for the application of this proviso shall not be deemed an incurrence of Indebtedness hereunder.

"**Indemnified Taxes**" means Taxes other than Excluded Taxes and Other Taxes.

"**Indemnitee**" has the meaning set forth in Section 9.03(b).

"**Information**" has the meaning set forth in Section 3.11(a).

"**Intercreditor Agreement**" means the Intercreditor Agreement, dated as of the date hereof, among the Administrative Agent, as agent for the Revolving Facility Secured Parties referred to therein, the Senior Notes Administrative Agent, as agent for the Senior Notes Secured Parties referred to therein, Holdings, Rockport Group and the Subsidiaries of Rockport Group from time to time party thereto.

"**Interest Election Request**" means a request by the Borrower Representative in the form of Exhibit I hereto or such other form reasonably acceptable to the Administrative Agent to convert or continue a Borrowing in accordance with Section 2.08.

"**Interest Payment Date**" means (a) with respect to any ABR Loan or any Obligation that bears interest at the Canadian Prime Rate, the last Business Day of each March, June, September and December and the Maturity Date or the maturity date applicable to such Loan or Commitment added pursuant to Sections 2.23 or 2.25, (b) with respect to any BA Rate Loan, the last day of each BA Period applicable to such Loan, and (c) with respect to any LIBO Rate Loan, the last day of the Interest Period applicable to the Borrowing of which such Loan is a part; and, in the case of a LIBO Rate Borrowing or a BA Rate Borrowing with an Interest Period of more than **three (3) months'** duration, each day that would have been an Interest Payment Date had successive Interest Periods of **three (3) months'** duration been applicable to such Borrowing.

"**Interest Period**" means with respect to any LIBO Rate Borrowing or BA Rate Borrowing, the period commencing on the date of such Borrowing and ending on the numerically corresponding day in the calendar month that is **one (1), two (2), three (3)** or **six (6) months** (or, to the extent consented to by each relevant affected Lender**, nine (9)** or **twelve (12)** months or a shorter period) thereafter, as the Borrower Representative may elect; provided that (i) if any Interest Period would end on a day other than a Business Day, such Interest Period shall be extended to the next succeeding Business Day unless such next succeeding Business Day would fall in the next calendar month, in which case such Interest Period shall end on the next preceding Business Day and (ii) any Interest Period that commences on the last Business Day of a calendar month (or on a day for which there is no numerically corresponding day in the last calendar month of such Interest Period) shall end on the last Business Day of the last calendar month of such Interest Period. For purposes hereof, the date of a Borrowing initially shall be the date on which such Borrowing is made and thereafter shall be the effective date of the most recent conversion or continuation of such Borrowing.

"**Inventory**" has the meaning assigned to such term in the Pledge and Security Agreement.

"**Inventory Component**" means (i) **90.0%** of the NOLV Percentage of Eligible Inventory (net of Reserves with respect to Inventory not already reflected in the determination of the NOLV Percentage) *multiplied by* (ii) the Value of such Inventory.

"**Investment**" means (a) any purchase or other acquisition by Rockport Group or any of its Subsidiaries of, or of a beneficial interest in, any of the Securities of any other Person (other than Rockport Group or a Subsidiary Guarantor), (b) the acquisition by purchase or otherwise (other than purchases or other acquisitions of inventory, materials, supplies and/or equipment in the ordinary course of business) of all or a substantial portion of the business, property or fixed assets of any Person or any division or line of business or other business unit of any Person and (c) any loan, advance (other than (i) advances to current or former employees, officers, directors, members of management or consultants of Rockport Group or its Subsidiaries or any Parent Company for moving, entertainment and travel expenses, drawing accounts and similar expenditures in the ordinary course of business and (ii) advances made on an intercompany basis in the ordinary course of business for the purchase of inventory) or capital contribution by Rockport Group or any of its Subsidiaries to any other Person (other than Rockport Group or any Subsidiary Guarantor). Subject to Section 5.10, the amount of any Investment shall be the original

cost of such Investment, *plus* the cost of all additions thereto, without any adjustments for increases or decreases in value, or write-ups, write-downs or write-offs with respect to such Investment, but giving effect to any repayments of principal in the case of Investments in the form of loans and any return of capital or return on Investment in the case of equity Investments (whether as a distribution, dividend, redemption or sale but not in excess of the amount of the initial Investment).

"**Investors**" means (i) the Sponsor, (ii) the Management Investors, (iii) certain of the existing shareholders of Holdings identified to the Administrative Agent in writing on the Closing Date and (iv) certain other investors identified to the Administrative Agent in writing on the Closing Date.

"**IP Rights**" has the meaning assigned to such term in Section 3.05(c).

"**IP Transfer Agreement**" means that certain IP Transfer Agreement, dated as of the Closing Date, by and among New Balance, New Balance Licensing and Rockport.

"**IPO**" means the issuance and sale by Rockport Group or any Parent Company of its common Capital Stock in an underwritten primary public offering (other than a public offering pursuant to a registration statement on Form S-8) pursuant to an effective registration statement filed with the SEC in accordance with the Securities Act (whether alone or in connection with a secondary public offering) pursuant to which Net Proceeds are received by or contributed to Rockport Group.

"**Issuing Bank**" means as the context may require, (a) Citizens Bank, N.A. and (b) any other Lender that, at the request of the Borrower Representative and with the consent of the Administrative Agent (not to be unreasonably withheld), agrees to become an Issuing Bank. Each Issuing Bank may, in its discretion, arrange for one or more Letters of Credit to be issued by Affiliates of such Issuing Bank, in which case the term "Issuing Bank" shall include any such Affiliate with respect to Letters of Credit issued by such Affiliate.

"**ITA**" means the Income Tax Act (Canada).

"**Joinder Agreement**" has the meaning assigned to such term in Section 5.12(a).

"**Junior Indebtedness**" means any Subordinated Indebtedness or Indebtedness secured by Liens junior to the Liens of the Administrative Agent with respect to the Collateral with an individual outstanding principal amount in excess of the Threshold Amount.

"**Landlord Lien**" means any Lien of a landlord on any Loan Party's property, granted by statute or otherwise.

"**Landlord Lien Reserve**" means an amount equal to up to **three (3)** month's rent for all of the Loan Parties' leased locations or the amount that may be payable for up to **three (3)** months to any third party warehouse or other storage facilities where Eligible Inventory is located with an aggregate Value of **$400,000** or greater in each Landlord Lien State for leased locations or warehouses or other storage facilities (any such location, a "**Specified Location**"), in each case, other than any such Specified Location with respect to which the Administrative Agent shall have received a Collateral Access Agreement in form reasonably satisfactory to the Administrative Agent (it being understood that upon receipt of any such Collateral Access Agreement with respect to any such Specified Location, any Landlord Lien Reserve with respect thereto shall be released).

"**Landlord Lien State**" means Washington, Virginia, Pennsylvania, each province or territory of Canada, and any other state, province or territory in which, at any time, a landlord's claim for rent or the

claims of the owner of a warehouse or other storage facility for rent, fees or other charges has priority by operation of law over the Lien of the Administrative Agent in any of the Collateral consisting of Eligible Inventory and, with respect to leased locations, as notified by the Administrative Agent to the Borrower Representative in writing.

"**Latest Maturity Date**" means, as of any date of determination, the latest maturity or expiration date applicable to any Loan or commitment hereunder at such time, including the latest maturity or expiration date of any Extended Revolving Loan.

"**LC Collateral Account**" has the meaning assigned to such term in Section 2.06(j)(i).

"**LC Disbursement**" means a payment made by an Issuing Bank pursuant to a drawing on a Letter of Credit.

"**LC Exposure**" means, at any time of determination, the sum of (a) the aggregate undrawn amount of all outstanding Letters of Credit at such time, *plus* (b) the aggregate amount of all LC Disbursements that have not yet been reimbursed by or on behalf of any Borrower or any other Loan Party at such time, *minus* (c) the amount then on deposit in the LC Collateral Account. The LC Exposure of any Lender at any time shall be its Applicable Percentage of the total LC Exposure at such time.

"**Lenders**" means the Persons listed on the Commitment Schedule (including any foreign branch thereof), any Additional Lender and any other Person that shall have become a party hereto pursuant to an Assignment and Assumption, other than any such Person that ceases to be a party hereto pursuant to an Assignment and Assumption. Unless the context otherwise requires, the term "Lenders" includes the Swingline Lender.

"**Letter of Credit**" means any Standby Letter of Credit or Commercial Letter of Credit issued pursuant to this Agreement.

"**Letter of Credit Request**" has the meaning assigned to such term in Section 2.06(b).

"**LIBO Rate**" means, with respect to any Interest Period when used in reference to any Loan or Borrowing, (a) the rate of interest (rounded upwards, if necessary, to the nearest 1/100th) appearing on Reuters Screen LIBOR01 Page (or on any successor or substitute page of such service, or any successor to such service as determined by Administrative Agent) as the London interbank offered rate for deposits in U.S. Dollars for a term comparable to such Interest Period, at approximately **11:00 a.m.** (London time) on the date which is **two (2)** Business Days prior to the commencement of such Interest Period (but if more than one rate is specified on such page, the rate will be an arithmetic average of all such rates), and (b) if such rate is not available at such time for any reason, then the "LIBO Rate" for such Interest Period shall be the interest rate per annum reasonably determined by the Administrative Agent in good faith to be the rate per annum at which deposits in Dollars for delivery on the first day of such Interest Period in immediately available funds in the approximate amount of the LIBO Rate Loan being made, continued or converted by the Administrative Agent and with a term equivalent to such Interest Period would be offered to the Administrative Agent by major banks in the London or other offshore interbank market for Dollars at their request at approximately **11:00 a.m.** (London time) **two (2)** Business Days prior to the commencement of such Interest Period, and in each case subject to the reserve percentage prescribed by governmental authorities.

"**Lien**" means any mortgage, pledge, hypothecation, deed of hypothec, assignment, deposit arrangement, encumbrance, lien (statutory or other), charge, or preference, priority or other security interest or preferential arrangement of any kind or nature whatsoever (including any conditional sale or

other title retention agreement, any easement, right of way or other encumbrance on title to real property, and any Capital Lease having substantially the same economic effect as any of the foregoing, or the filing of any financing statement naming the owner of the asset to which such lien relates as debtor, under the PPSA or any comparable law), in each case, in the nature of security; provided that in no event shall an operating lease in and of itself be deemed a Lien.

"**Line Cap**" has the meaning assigned to such term in Section 2.01(b).

"**Liquidation**" means the exercise by the Administrative Agent of the rights and remedies accorded to Administrative Agent under the Loan Documents and applicable law as a creditor of the Loan Parties with respect to the realization on the Collateral, including (after the occurrence and during the continuation of an Event of Default) the conduct by the Loan Parties acting with the consent of the Administrative Agent, of any public, private or going out of business sale or other disposition of the Collateral for the purpose of liquidating the Collateral. Derivations of the word "Liquidation" (such as "**Liquidate**") are used with like meaning in this Agreement.

"**Liquidity Condition**" has the meaning set forth in the definition of "Cash Dominion Period."

"**Loan Documents**" means this Agreement, any Promissory Note, any Letters of Credit or Letter of Credit applications, the Collateral Documents, the Intercreditor Agreement, the Subordination Agreement, the Fee Letter and any other document or instrument designated by the Borrower Representative and the Administrative Agent as a "Loan Document". Any reference in this Agreement or any other Loan Document to a Loan Document shall include all appendices, exhibits or schedules thereto, and all amendments, restatements, supplements or other modifications thereto.

"**Loan Guarantor**" means each Loan Party (other than a Borrower with respect to its own Obligations).

"**Loan Guaranty**" means the guaranty set forth in Article 10 of this Agreement.

"**Loan Parties**" means Holdings, UK Holdings, any Borrower, each Subsidiary Guarantor and any other Person who becomes a party to this Agreement or any other Loan Document as a Loan Party pursuant to a Joinder Agreement, and their respective successors and assigns.

"**Loans**" means any Revolving Loans, Swingline Loans and Protective Advances.

"**Local Time**" means (a) with respect to a Loan or Borrowing denominated in U.S. Dollars or any Letter of Credit, New York City time, and (b) with respect to a Borrowing denominated in Canadian Dollars, Toronto time.

"**Management Agreement**" means the management agreement to be entered into as of the Closing Date between Rockport Group and Adidas.

"**Management Investors**" means the officers, directors, employees and other members of the management of Holdings and its subsidiaries.

"**Margin Stock**" has the meaning assigned to such term in Regulation U.

"**Master Purchase Agreement**" has the meaning assigned to such term in the recitals to this Agreement.

"**Material Adverse Effect**" means (a) on the Closing Date, a Company Material Adverse Effect and (b) after the Closing Date, a material adverse effect on (i) the business, assets, financial condition or results of operations, in each case, of Holdings, any Borrower and its Subsidiaries, taken as a whole, (ii) the rights and remedies (taken as a whole) of the Administrative Agent under the applicable Loan Documents or (iii) the ability of any Borrower and the other Loan Parties (taken as a whole) to perform their payment obligations under the Loan Documents.

"**Material Real Estate Asset**" means (a) any fee-owned Real Estate Asset owned by Rockport Group and its Subsidiaries as of the Closing Date having a fair market value (as reasonably estimated by the Borrower Representative) in excess of **$2,500,000** as of such date and (b) any fee-owned Real Estate Asset acquired by any Loan Party after the Closing Date having a fair market value (as reasonably estimated by the Borrower Representative) in excess of **$2,500,000** as of the date of acquisition thereof.

"**Maturity Date**" means July 31, 2020.

"**Maximum Liability**" has the meaning assigned to such term in Section 10.10.

"**Maximum Rate**" has the meaning assigned to such term in Section 9.19.

"**Minimum Extension Condition**" has the meaning assigned to such term in Section 2.25(b).

"**Moody's**" means Moody's Investors Service, Inc. and any successor to its rating agency business.

"**Mortgaged Properties**" shall include each fee-owned Material Real Estate Asset and improvements thereto.

"**Mortgages**" means any mortgage, deed of trust, deed of immovable hypothec or other agreement which conveys or evidences a Lien in favor of the Administrative Agent, for the benefit of the Administrative Agent and the other Secured Parties, on fee-owned Material Real Estate Assets of a Loan Party.

"**Multiemployer Plan**" means any employee benefit plan which is a "multiemployer plan" as defined in Section 3(37) of ERISA, to which any Borrower or any of its Subsidiaries, or any of their respective ERISA Affiliates, makes or is obligated to make contributions and with respect to which any of them has an ongoing obligation.

"**NBH**" has the meaning assigned to such term in the recitals to this Agreement.

"**Net Proceeds**" means (a) with respect to any asset sale, the Cash proceeds (including Cash Equivalents and Cash proceeds subsequently received (as and when received) in respect of non-cash consideration initially received), net of (i) selling costs and out-of-pocket expenses (including reasonable broker's fees or commissions, legal fees, transfer and similar Taxes and the Borrower Representative's good faith estimate of income Taxes paid or payable (including pursuant to Tax sharing arrangements) in connection with such sale), (ii) amounts provided as a reserve, in accordance with GAAP, against any liabilities under any indemnification obligations or purchase price adjustment associated with such asset sale (provided that to the extent and at the time any such amounts are released from such reserve, such amounts shall constitute Net Proceeds), (iii) the principal amount, premium or penalty, if any, interest and other amounts on any Indebtedness for borrowed money (other than the Loans, Indebtedness under the Note Purchase Agreement and any other Indebtedness secured by a Lien that is *pari passu* or junior to the Lien on the Collateral securing the Secured Obligations) which is secured by the asset sold in such asset

sale and which is required to be repaid with such proceeds (other than any such Indebtedness assumed by the purchaser of such asset), and (iv) Cash escrows (until released from escrow to any Borrower or any of its Subsidiaries) from the sale price for such asset sale (other than such amounts deposited into a Blocked Account pursuant to Section 6.08(q)); and (b) with respect to any issuance or incurrence of Indebtedness or Capital Stock, the Cash proceeds thereof, net of all Taxes and customary fees, commissions, costs, underwriting discounts and other fees and expenses incurred in connection therewith.

"**New Balance**" means New Balance Athletic Shoe, Inc., a Massachusetts corporation, and its Affiliates.

"**New Balance Licensing**" means New Balance Licensing, LLC, a Massachusetts limited liability company.

"**NOLV Percentage**" means, with respect to Inventory of any Person, the net orderly liquidation value of Inventory, expressed as a percentage of Value, net of all reasonable costs and expenses of liquidation thereof, as determined based upon the most recent Inventory appraisal conducted in accordance with this Agreement.

"**Non-Consenting Lender**" has the meaning assigned to such term in Section 2.19(b).

"**Non-Paying Guarantor**" has the meaning assigned to such term in Section 10.11.

"**Note Collateral**" has the meaning set forth in the Intercreditor Agreement.

"**Note Collateral Documents**" has the meaning set forth in the Intercreditor Agreement.

"**Note Purchase Agreement**" means that certain Note Purchase Agreement, dated as of the Closing Date, among, *inter alia*, Rockport Group and the financial institutions and other persons party thereto from time to time, as purchasers.

"**Notice of Intent to Cure**" has the meaning provided in Section 6.18(b).

"**Obligated Party**" has the meaning assigned to such term in Section 10.02.

"**Obligations**" means all unpaid principal of and accrued and unpaid interest (including interest accruing during the pendency of any bankruptcy, insolvency, receivership or other similar proceeding, regardless of whether allowed or allowable in such proceeding) on the Loans, all LC Exposure, all accrued and unpaid fees and all reasonable and documented out-of-pocket (other than, subject to the limitations in Section 5.06(b), in the case of any internally allocated amounts in connection with appraisals and field exams) expenses, reimbursements, indemnities and all other advances to, debts, liabilities and obligations of the Loan Parties to the Lenders or to any Lender, the Administrative Agent, any Issuing Bank or any indemnified party arising under the Loan Documents in respect of any Loan or Letter of Credit, whether direct or indirect (including those acquired by assumption), absolute, contingent, due or to become due, now existing or hereafter arising.

"**OFAC**" has the meaning assigned to such term in Section 3.20(a).

"**Organizational Documents**" means (a) with respect to any corporation, its certificate or articles of incorporation, amalgamation or continuation or organization, as amended, and its by-laws, (b) with respect to any limited partnership, its certificate of limited partnership, and its partnership agreement, (c) with respect to any general partnership, its partnership agreement, (d) with respect to any limited

liability company, its articles of organization or certificate of formation, and its operating agreement, (e) with respect to any unlimited liability company, its articles of association and memorandum of association or other operating agreement, and (f) with respect to any other form of entity, such other organizational documents required by local law or customary under such jurisdiction to document the formation and governance principals of such type of equity. In the event any term or condition of this Agreement or any other Loan Document requires any Organizational Document to be certified by a secretary of state or similar governmental official, the reference to any such "Organizational Document" shall only be to a document of a type customarily certified by such governmental official.

"**Other Connection Taxes**" means Taxes imposed on any recipient of any payment to be made by or on account of any obligation of any Borrower or any other Loan Party hereunder as a result of a present or former connection between such recipient and the jurisdiction imposing such Tax (other than connections arising solely from such recipient having executed, delivered, become a party to, performed its obligations under, received payments under, received or perfected a security interest under, or engaged in any other transaction pursuant to or enforced any Loan Document, or sold or assigned an interest in any Loan or Loan Document).

"**Other Taxes**" means any and all present or future stamp, court or documentary, intangible, recording, filing or similar Taxes that arise from any payment made hereunder or from the execution, delivery, performance, enforcement or registration of, from the receipt or perfection of a security interest under, or otherwise with respect to, any Loan Document, except any such Taxes that are Other Connection Taxes imposed with respect to an assignment (other than an assignment made pursuant to Section 2.19).

"**Parent Company**" means (a) Holdings, (b) RGH, (c) TRG 1-P Holdings, LLC and (d) any other Person of which Rockport Group is a direct or indirect Wholly Owned Subsidiary.

"**Participant**" has the meaning assigned to such term in Section 9.05(c).

"**Participant Register**" has the meaning assigned to such term in Section 9.05(c).

"**Paying Guarantor**" has the meaning assigned to such term in Section 10.11.

"**Payment Conditions**" means, with respect to any transaction, (a) there is no Default or Event of Default existing immediately after giving effect to such transaction, (b) Excess Availability (calculated on a Pro Forma Basis to include (x) the Borrowing of any Revolving Loan or the issuance of any Letter of Credit in connection with such transaction and (y) the Borrowing Base assets and Qualified Cash acquired in any such transaction that is an acquisition) (i) on the date of such proposed transaction is and (ii) for each day of the **60 day** period immediately following the date of such proposed transaction (calculated as set forth above) is projected to be, in each case, greater than or equal to **15.0%** of the Line Cap, and (c) the Fixed Charge Coverage Ratio (calculated on a Pro Forma Basis to include the borrowing of any Revolving Loan or the issuance of any Letter of Credit in connection with the transaction) measured for the then applicable Test Period, as of the end of the last fiscal quarter for which financial statements have been, or were required to be, delivered pursuant to Section 5.01(b) or (c) is at least 1.0 to 1.0; provided that if Excess Availability (calculated as set forth above) on the date of such proposed transaction is and for each day of the **60 day** period immediately following the date of such proposed transaction (calculated as set forth above) is projected to be, in each case, greater than **25%** of the Line Cap, then this clause (c) shall not apply.

"**PBGC**" means the Pension Benefit Guaranty Corporation or any successor thereto.

"**Perfection Certificate**" has the meaning assigned to such term in the Pledge and Security Agreement.

"**Perfection Certificate Supplement**" has the meaning assigned to such term in the Pledge and Security Agreement.

"**Permitted Acquisition**" means any acquisition by Rockport Group or any of its Subsidiaries, whether by purchase, merger, amalgamation, or otherwise, of all or substantially all of the assets of or any business line, unit, division or any operating stores of, any Person or of a majority of the outstanding Capital Stock of any Person (but in any event including any Investment in a Subsidiary which serves to increase any Borrower's or any Subsidiary's respective equity ownership in such Subsidiary), or any acquisition of or Investment in any joint venture; provided that:

(a) such Person is in a line of business consistent with Section 6.12;

(b) immediately prior to, and after giving effect to such acquisition, the Payment Conditions shall have been satisfied; provided that this clause (b) shall not apply to any acquisition or series of related acquisitions during a Fiscal Year where the aggregate amount of consideration for such acquisition or series of related acquisitions is less than **$7,500,000**, so long as the aggregate amount of consideration for such acquisition or series of related acquisitions, together with the aggregate amount of consideration for all other Permitted Acquisitions in the same Fiscal Year (excluding any Permitted Acquisition previously subject to the Payment Conditions test pursuant to this clause (b)), is less than **$22,500,000**;

(c) on the date of execution of the purchase agreement in respect of such acquisition, no Event of Default shall have occurred and be continuing or would result from the execution of such agreement; and

(d) the total consideration paid by the Loan Parties for (i) the acquisition, directly or indirectly, of any Person that does not become a Guarantor and (ii) in the case of an asset acquisition, assets that are not acquired by any Borrower or a Guarantor, when taken together with the total consideration for all such acquired Persons and assets acquired after the Closing Date, shall not exceed the sum of (A) **$7,500,000** and (B) amounts otherwise available under clause (r) of Section 6.07.

"**Permitted Discretion**" means a determination made in good faith and in the exercise of reasonable credit judgment (from the perspective of a secured asset-based lender) in accordance with customary business practices of the Administrative Agent for comparable asset-based lending transactions.

"**Permitted Encumbrances**" means Liens permitted to exist as set forth in Section 6.02(b) through Section 6.02(j) and Sections 6.02(p), 6.02(t), 6.02(w) and 6.02(z)(ii).

"**Permitted Holder**" means any of the Sponsor, current equity owners of Rockport, Crescent, GoldPoint Entities, any of the other Co-Investors and any Management Investors.

"**Permitted Liens**" means Liens permitted pursuant to Section 6.02.

"**Person**" means any natural person, corporation, limited liability company, unlimited liability company, trust, joint venture, association, company, partnership, Governmental Authority or any other entity.

"**Pledge and Security Agreement**" means (a) with respect to the U.S. Loan Parties, that certain Pledge and Security Agreement governed by the laws of the State of New York, dated as of the date hereof, between such Loan Parties and the Administrative Agent, for the benefit of the Administrative Agent and the other Secured Parties, and (b) with respect to the Canadian Loan Parties, that certain Pledge and Security Agreement governed by the laws of the Province of Ontario, dated as of the date hereof, between such Loan Parties and the Administrative Agent, for the benefit of the Administrative Agent and the other Secured Parties, and, as the context requires, includes any deed of hypothec made by such Loan Parties in favour of the Administrative Agent, for the benefit of the Administrative Agent and the other Secured Parties.

"**PPSA**" means the *Personal Property Security Act* (Ontario) and the regulations thereunder, as from time to time in effect; provided, however, if attachment, perfection or priority of the Administrative Agent's security interests in any Collateral are governed by the personal property security laws of any jurisdiction other than Ontario, PPSA shall mean those personal property security laws in such other jurisdiction for the purposes of the provisions hereof relating to such attachment, perfection or priority and for the definitions related to such provisions (including the Civil Code of Quebec).

"**Primary Obligor**" has the meaning set forth in the definition of "Guarantee."

"**Prime Rate**" means (a) with respect to Loans made to the U.S. Borrowers, the prime commercial lending rate of the Administrative Agent for commercial loans in Dollars in the United States, as established from time to time at its Stamford Branch, with the understanding that the "prime rate" is one of the Administrative Agent's base rates (not necessarily the lowest of such rates) and serves as the basis upon which effective rates of interest are calculated for those loans making reference thereto and is evidenced by the recording thereof in such internal publications as the Administrative Agent may designate, and (b) with respect to Loans made to the Canadian Borrower, the prime commercial lending rate of the Administrative Agent for commercial loans in Dollars made in Canada, as established from time to time, with the understanding that the "prime rate" is one of the Administrative Agent's base rates (not necessarily the lowest of such rates) and serves as the basis upon which effective rates of interest are calculated for those loans making reference thereto and is evidenced by the recording thereof in such internal publications as the Administrative Agent may designate.

"**Prior Claims**" means all liabilities and obligations of any Canadian Loan Party secured by any Liens, choate or inchoate which rank or are capable of ranking in priority to or *pari passu* with the Administrative Agent's Liens against all or part of the Collateral, including, any such amounts due and not paid for employee source deductions, wages or vacation pay (including amounts protected by the *Wage Earner Protection Program Act* (Canada)), amounts due and not paid under any legislation relating to workers' compensation or to employment insurance, all amounts deducted or withheld and not paid and remitted when due with respect to Taxes (including goods and service taxes, sales taxes, harmonized sales taxes or corporate taxes) and including amounts currently or past due and not paid for realty, municipal or similar taxes, all amounts currently or past due and not yet contributed, remitted or paid to or under any Canadian Pension Plan or under the Canada Pension Plan, the Quebec Pension Plan, the Pension Benefits Act (Ontario) or any similar legislation of any other jurisdiction, and any solvency deficiency or wind-up deficiency with respect to Canadian Defined Benefit Plans.

"**Pro Forma Basis**" means with respect to any determination of the Fixed Charge Coverage Ratio, Consolidated Total Assets or Payment Conditions (including component definitions thereof) that all Subject Transactions and the following transactions in connection therewith shall be deemed to have occurred as of the first day of the applicable period of measurement with respect to any test or covenant for which such calculation is being made: (a) income statement items (whether positive or negative) attributable to the property or Person subject to such Subject Transaction, (i) in the case of a sale, transfer

or other disposition of all or substantially all Capital Stock of any Subsidiary of any Borrower or any branch, division or product line of any Borrower or any of its Subsidiaries or any designation of a subsidiary as an Unrestricted Subsidiary, shall be excluded, and (ii) in the case of a Permitted Acquisition, Investment or designation of an Unrestricted Subsidiary as a Subsidiary described in the definition of the term "Subject Transaction," shall be included, (b) in the case of any incurrence, retirement or repayment by any Borrower or any of its Subsidiaries of Indebtedness with reference to or reliance upon the Fixed Charge Coverage Ratio (and the application of the proceeds thereof) giving rise to the need to make such calculation and any incurrence, retirement or repayment of other Indebtedness (and the discharge of any other Indebtedness retired or repaid with the proceeds of such incurred Indebtedness shall be calculated as if such discharge had occurred on the first day of the applicable period of measurement); provided that, in the case of this clause (b), (x) if such Indebtedness has a floating or formula rate, such Indebtedness shall have an implied rate of interest for the applicable period for purposes of this definition determined by utilizing the rate that is or would be in effect with respect to such Indebtedness at the relevant date of determination (taking into account any interest hedging arrangements applicable to such Indebtedness), (y) interest on any obligations with respect to Capital Leases shall be deemed to accrue at an interest rate reasonably determined by a Responsible Officer of the Borrower Representative to be the rate of interest implicit in such obligation in accordance with GAAP and (z) interest on any Indebtedness that may optionally be determined at an interest rate based upon a factor of a prime or similar rate, a Eurocurrency interbank offered rate or other rate shall be determined to have been based upon the rate actually chosen, or if none, then based upon such optional rate chosen as the Borrower Representative or such Subsidiary may designate and (c) the acquisition of any Consolidated Total Assets, whether pursuant to any Subject Transaction or any Person becoming a subsidiary or merging, amalgamating or consolidating with or into any Borrower or any of its Subsidiaries; provided that, the foregoing pro forma adjustments described in clause (a) above may be applied to any such test or covenant solely to the extent that such adjustments are consistent with the definition of "Consolidated EBITDA" and give effect to events (including operating expense reductions) that are (x) directly attributable to such transaction, (y) expected to have a continuing impact on any Borrower and its subsidiaries and (z) factually supportable.

"**Projections**" means the projections of Rockport Group and its Subsidiaries provided to the Administrative Agent on the Closing Date.

"**Promissory Note**" means a promissory note of any Borrower payable to any Lender or its registered assigns, in substantially the form of Exhibit H hereto, evidencing the aggregate Indebtedness of any Borrower to such Lender resulting from the Loans made by such Lender.

"**Protective Advance**" has the meaning assigned to such term in Section 2.04(a).

"**Qualified Capital Stock**" of any Person means any Capital Stock of such Person that is not Disqualified Capital Stock.

"**Qualified Cash**" means cash and Cash Equivalents of the Loan Parties that are subject to Blocked Account Agreements and a first priority, perfected lien in favor of the Administrative Agent.

"**Qualified Holding Company Debt**" means unsecured Indebtedness of Holdings (A) that is not subject to any Guarantee by any subsidiary of Holdings, (B) that will not mature prior to the date that is **twelve (12) months** after the Latest Maturity Date in effect on the date of the issuance or incurrence thereof, (C) that has no scheduled amortization, scheduled payments of principal or scheduled cash interest payments prior to the date that is **twelve (12) months** after the Latest Maturity Date in effect on the date of the issuance or incurrence thereof and is not subject to mandatory redemption, repurchase, prepayment or sinking fund obligation (it being understood that such Indebtedness may have mandatory prepayment, repurchase or redemption provisions satisfying the requirements of clause (D) below) and

(D) that has mandatory prepayment, repurchase or redemption, covenant, default and remedy provisions customary for senior discount notes of an issuer that is the parent of a borrower under senior secured credit facilities, and in any event, with respect to covenant, default and remedy provisions, no more restrictive (taken as a whole) than those set forth in the Note Purchase Agreement; provided that the Borrower Representative shall have delivered a certificate of a Responsible Officer to the Administrative Agent at least **five (5)** Business Days prior to the incurrence of such Indebtedness, together with a reasonably detailed description of the material terms and conditions of such Indebtedness or drafts of the documentation relating thereto, stating that the Borrower Representative has reasonably determined in good faith that such terms and conditions satisfy the foregoing requirement (and such certificate shall be conclusive evidence that such terms and conditions satisfy the foregoing requirement unless the Administrative Agent notifies the Borrower Representative within such **five (5)** Business Day period that it disagrees with such determination (including a reasonably detailed description of the basis upon which it disagrees)); provided, further, that any such Indebtedness shall constitute Qualified Holding Company Debt only if immediately after giving effect to the issuance or incurrence thereof and the use of proceeds thereof, no Event of Default shall have occurred and be continuing.

"**Real Estate Asset**" means, at any time of determination, any interest (fee, leasehold or otherwise) in real property then owned by any Loan Party.

"**Receivables Facility**" means any of one or more receivables financing facilities as amended, supplemented, modified, extended, renewed, restated or refunded from time to time, the obligations of which are non-recourse to any Loan Party pursuant to which a Receivables Subsidiary sells its accounts or loans receivable to either (1) a Person that is not a Subsidiary or (2) a Receivables Subsidiary that in turn sells its accounts or loans receivable to a Person that is not a Subsidiary.

"**Receivables Subsidiary**" means any Foreign Subsidiary that is an Excluded Subsidiary of Holdings.

"**Refinancing Indebtedness**" has the meaning assigned to such term in Section 6.01(p).

"**Refunded Swingline Loans**" has the meaning assigned to such term in Section 2.05(b).

"**Refunding Capital Stock**" has the meaning assigned to such term in Section 6.05(a)(viii).

"**Register**" has the meaning assigned to such term in Section 9.05(b)(iv).

"**Regulation T**" means Regulation T of the Board as from time to time in effect and all official rulings and interpretations thereunder or thereof, and any successor provision thereto.

"**Regulation U**" means Regulation U of the Board as from time to time in effect and all official rulings and interpretations thereunder or thereof, and any successor provision thereto.

"**Regulation X**" means Regulation X of the Board as from time to time in effect and all official rulings and interpretations thereunder or thereof, and any successor provision thereto.

"**Related Parties**" means, with respect to any specified Person, such Person's Affiliates and the respective directors, officers, trustees, employees, agents and advisors of such Person and such Person's Affiliates.

"**Release**" means any release, spill, emission, leaking, pumping, pouring, injection, escaping, deposit, disposal, discharge, dispersal, dumping, leaching or migration of any Hazardous Material into the

indoor or outdoor environment (including the abandonment or disposal of any barrels, containers or other closed receptacles containing any Hazardous Material), including the movement of any Hazardous Material through the air, soil, surface water or groundwater.

"**Release Provisions**" has the meaning assigned to such term in Article 8.

"**Report**" means reports prepared by the Administrative Agent or another Person showing the results of appraisals, field examinations or audits pertaining to the Loan Parties' assets from information furnished by or on behalf of the Loan Parties, after the Administrative Agent has exercised its rights of inspection pursuant to this Agreement, which Reports may be distributed to the Lenders by the Administrative Agent, subject to the provisions of Section 9.13.

"**Required Lenders**" means, at any time, Lenders having Revolving Exposure and unused Commitments representing more than **50.0%** of the sum of the Total Revolving Exposure and unused Commitments at such time; provided that if there are two or more Lenders, "Required Lenders" shall mean at least two Lenders; provided, further, that the Revolving Exposure and unused Commitments of any Defaulting Lender shall be disregarded in the determination of the Required Lenders at any time.

"**Required Minimum Balances**" has the meaning assigned to such term in Section 2.21(d).

"**Requirements of Law**" means, with respect to any Person, collectively, the common law and all federal, state, provincial, territorial, local, foreign, multinational or international laws, statutes, codes, treaties, standards, rules and regulations, guidelines, ordinances, orders, judgments, writs, injunctions, decrees (including administrative or judicial precedents or authorities) and the interpretation or administration thereof by, and other determinations, directives, requirements or requests of any Governmental Authority, in each case whether or not having the force of law and that are applicable to or binding upon such Person or any of its property or to which such Person or any of its property is subject.

"**Reserves**" means the Landlord Lien Reserve and any and all other reserves established in accordance with and subject to Section 2.24. Without limiting the generality of the foregoing but subject to Section 2.24, there may be dilution reserves, reserves for unpaid and accrued sales taxes, reserves for banker's liens, rights of setoff or similar rights and remedies as to deposit or investment accounts, reserves for contingent liabilities of any Loan Party, reserves for uninsured or underinsured losses or litigation of any Loan Party, reserves for raw material purchase price variations, customer-specific bad debt reserves, reserves for customs charges, freight and shipping charges related to any Inventory in transit, reserves for other taxes, fees, assessments, and other governmental charges with respect to the Collateral or any Loan Party, reserves for self-insurance and insurance premiums, reserves for royalties and other payments to owners or licensors of Intellectual Property and reserves on account of Prior Claims.

"**Responsible Officer**" of any Person means the chief executive officer, the president, executive vice president, any senior vice president, any vice president, the chief operating officer or any Financial Officer of such Person and any other officer or similar official thereof responsible for the administration of the obligations of such Person in respect of this Agreement, and, as to any document delivered on the Closing Date (but subject to the express requirements set forth in Article 4), shall include any secretary or assistant secretary of a Loan Party. Any document delivered hereunder that is signed by a Responsible Officer of a Loan Party shall be conclusively presumed to have been authorized by all necessary corporate, partnership and/or other action on the part of such Loan Party and such Responsible Officer shall be conclusively presumed to have acted on behalf of such Loan Party.

"**Restricted Debt Payment**" has the meaning set forth in Section 6.05(b).

"**Restricted Payment**" means (a) any dividend or other distribution on account of any shares of any class of the Capital Stock of any Borrower now or hereafter outstanding, except a dividend payable solely in shares of such class of Capital Stock to the holders of such class, (b) any redemption, retirement, sinking fund or similar payment, purchase or other acquisition for value of any shares of any class of the Capital Stock of any Borrower now or hereafter outstanding and (c) any payment made to retire, or to obtain the surrender of, any outstanding warrants, options or other rights to acquire shares of any class of the Capital Stock of any Borrower now or hereafter outstanding.

"**Revolving Exposure**" means, with respect to any Lender at any time, the sum of (a) the outstanding principal amount of such Lender's Revolving Loans, (b) its LC Exposure, (c) its Applicable Percentage of the aggregate principal amount of Swingline Loans outstanding at such time and (d) its Applicable Percentage of the aggregate principal amount of Protective Advances outstanding at such time.

"**Revolving Collateral**" has the meaning set forth in the Intercreditor Agreement.

"**Revolving Loan**" means a Loan made pursuant to Section 2.01.

"**Rockport**" has the meaning assigned to such term in the preamble to this Agreement.

"**Rockport Group**" has the meaning assigned to such term in the preamble to this Agreement.

"**S&P**" means Standard & Poor's Financial Services LLC, a subsidiary of the McGraw-Hill Companies, Inc., and any successor to its rating agency business.

"**SEC**" means the Securities and Exchange Commission, or any Governmental Authority succeeding to any or all of its functions.

"**Secured Hedging Obligations**" means all Hedging Obligations under each Hedge Agreement that (a) is in effect on the Closing Date and is between any Loan Party and a counterparty that is the Administrative Agent or a Lender or an Affiliate of the Administrative Agent or a Lender as of the Closing Date or (b) is entered into after the Closing Date and is between any Loan Party and any counterparty that is the Administrative Agent or a Lender or an Affiliate of the Administrative Agent or a Lender at the time such Hedge Agreement is entered into, for which any Loan Party agrees to provide security, in each case that has been designated to the Administrative Agent in writing by any Borrower as being a Secured Hedging Obligation for the purposes of the Loan Documents, it being understood that each counterparty thereto shall be deemed (A) to appoint the Administrative Agent as its agent under the applicable Loan Documents and (B) to agree to be bound by the provisions of Article 8, Section 9.03 and Section 9.10 as if it were a Lender; provided that Excluded Swap Obligations shall not constitute Secured Hedging Obligations.

"**Secured Obligations**" means all Obligations, together with (a) Banking Services Obligations and (b) all Secured Hedging Obligations; provided that all Secured Obligations shall not include Excluded Swap Obligations.

"**Secured Parties**" has the meaning assigned to such term in the Pledge and Security Agreement.

"**Securities**" means any stock, shares, partnership interests, voting trust certificates, certificates of interest or participation in any profit-sharing agreement or arrangement, options, warrants, bonds, debentures, notes, or other evidences of indebtedness, secured or unsecured, convertible, subordinated or otherwise, or in general any instruments commonly known as "securities" or any certificates of interest,

shares or participations in temporary or interim certificates for the purchase or acquisition of, or any right to subscribe to, purchase or acquire, any of the foregoing; provided that "Securities" shall not include any earn-out agreement or obligation or any employee bonus or other incentive compensation plan or agreement.

"**Securities Act**" means the Securities Act of 1933 and the rules and regulations of the SEC promulgated thereunder.

"**Security Agreement Joinder Agreement**" has the meaning assigned to such term in the Pledge and Security Agreement.

"**Seller**" has the meaning assigned to such term in the recitals to this Agreement.

"**Seller Notes**" mean, collectively, (a) that certain Unsecured Subordinated Promissory Note, dated as of the Closing Date, in the aggregate principal amount of **$10,000,000**, (b) that certain Unsecured Subordinated Contingent Promissory Note – Tranche A, dated as of the Closing Date, in the aggregate principal amount of up to **$15,000,000**, and (c) that certain Unsecured Subordinated Contingent Promissory Note – Tranche B, dated as of the Closing Date, in the aggregate principal amount of up to **$15,000,000**.

"**Seller Note Subordination Agreement**" means the subordination agreement in the form attached hereto as Exhibit L.

"**Senior Notes**" means the secured, senior notes in the original aggregate principal amount of **$130,000,000**, as reduced by any repayment, redemption or retirement thereof, issued pursuant to the Note Purchase Agreement.

"**SPC**" has the meaning assigned to such term in Section 9.05(e).

"**Specified Acquisition Agreement Representations**" means the representations made by or on behalf of Holdings, its subsidiaries and their respective businesses in the Master Purchase Agreement as are material to the interests of the Lenders, but only to the extent that Rockport Group (or any of its applicable Affiliates) has the right, pursuant to the Master Purchase Agreement, to terminate its (or their) obligations under the Master Purchase Agreement or decline to consummate the Acquisition as a result of the breach of such representations.

"**Specified Location**" has the meaning set forth in the definition of "Landlord Lien Reserve."

"**Specified Representations**" mean the representations and warranties set forth in Sections 3.01(a) (as it relates to organizational existence of the Loan Parties), 3.02, 3.03(b)(i), 3.03(b)(ii) (to the extent such conflict would result in a Company Material Adverse Effect), 3.08, 3.13, 3.16 (as it relates to the creation, validity and perfection of the security interests in the Collateral), 3.18, and 3.20.

"**Sponsor**" means, collectively, Berkshire and New Balance.

"**Sponsor Management Agreement**" means one or more management, consulting, expense reimbursement or similar agreements among one or more of the Sponsor, other holders of Capital Stock (and their Affiliates), Holdings, Rockport Group (and/or any Parent Company) (including that certain Management Agreement dated as of the date hereof, by and among, *inter alia*, the Sponsor and RGH), as the same may be amended, amended and restated, modified, supplemented, replaced or otherwise modified from time to time in accordance with their terms, but only to the extent that such agreements

and any such amendment, amendment and restatement, modification, supplement, replacement or other modification thereto does not, directly or indirectly, require Holdings, Rockport Group or any of its Subsidiaries to make any payments thereunder other than (x) with respect to any management, monitoring, oversight, consulting or advisory fees in an aggregate principal amount for all such agreements not exceeding **$2,000,000** in any Fiscal Year (*plus* the amount of any accrued obligations that are not paid in any prior Fiscal Year as a result of the existence of any Event of Default under Sections 7.01(a), 7.01(f) or 7.01(g)) and (y) with respect to any transaction fees, including fees in respect of financial advisory, financing, underwriting or placement services in an aggregate principal amount for all such agreements not exceeding **1.0%** of the gross transaction value (in each case, including any unpaid and accrued fees and expenses permitted pursuant to clauses (x) and (y) and interest thereon).

"**Spot Selling Rate**" means, on any date, as determined by the Administrative Agent, the spot selling rate posted by Reuters on its website for the sale of the applicable currency for Dollars at approximately **11:00 a.m.**, Local Time**, two (2)** Business Days prior to such date (the "**Applicable Quotation Date**"); provided that if, for any reason, no such spot rate is being quoted, the spot selling rate shall be determined by reference to such publicly available service for displaying exchange rates as may be selected by the Administrative Agent, or, in the event no such service is selected, such spot selling rate shall instead be the rate determined by the Administrative Agent as the spot rate of exchange in the market where its foreign currency exchange operations in respect of the applicable currency are then being conducted, at or about **11.00 a.m.** Local Time, on the Applicable Quotation Date for the purchase of the relevant currency for delivery **two (2)** Business Days later.

"**Standby Letter of Credit**" means any Letter of Credit other than a Commercial Letter of Credit.

"**stated amount**" means, at any time, the maximum amount for which a Letter of Credit may be honored.

"**Subject Transaction**" means, with respect to any period, (a) the Transactions, (b) any Permitted Acquisition or the making of other Investments not prohibited by this Agreement, (c) any disposition of all or substantially all of the assets or stock of a Subsidiary (or any business unit, line of business or division of any Borrower or a Subsidiary) not prohibited by this Agreement, (d) the designation of a Subsidiary as an Unrestricted Subsidiary or an Unrestricted Subsidiary as a Subsidiary in accordance with Section 5.10 hereof or (e) any other event that by the terms of the Loan Documents requires pro forma compliance with a test or covenant hereunder or requires such test or covenant to be calculated on a Pro Forma Basis.

"**Subordinated Indebtedness**" means any Indebtedness of any Borrower or any of its Subsidiaries that is expressly subordinated in right of payment to the Obligations.

"**subsidiary**" means, with respect to any Person, any corporation, partnership, limited liability company, association, joint venture or other business entity of which more than **50.0%** of the total voting power of shares of stock or other ownership interests entitled (without regard to the occurrence of any contingency) to vote in the election of the Person or Persons (whether directors, managers, trustees or other Persons performing similar functions) having the power to direct or cause the direction of the management and policies thereof is at the time owned or controlled, directly or indirectly, by that Person or one or more of the other subsidiaries of that Person of a combination thereof; provided that in determining the percentage of ownership interests of any Person controlled by another Person, no ownership interest in the nature of a "qualifying share" of the former Person shall be deemed to be outstanding.

"**Subsidiary**" means any subsidiary of Rockport Group other than an Unrestricted Subsidiary.

"**Subsidiary Guarantor**" means (x) on the Closing Date, each Subsidiary of Rockport Group (other than any Excluded Subsidiary) and (y) thereafter, each Subsidiary of Rockport Group that thereafter guarantees the Secured Obligations pursuant to the terms of this Agreement, in each case, until such time as the respective Subsidiary is released from its obligations under the Loan Guaranty in accordance with the terms and provisions hereof.

"**Successor Parent Company**" has the meaning assigned to such term in Section 6.16.

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

"**Swingline Lender**" means, as the context requires, individually and collectively, the U.S. Swingline Lender and the Canadian Swingline Lender.

"**Swingline Loan**" means a Loan made pursuant to Section 2.05.

"**Tax Distributions**" shall mean, with respect to any taxable year (or portion thereof) for which Rockport Group and Holdings are both treated as partnerships or other "pass-through" entities for U.S. federal income tax purposes, Restricted Payments made by Rockport Group to Holdings, and from Holdings to its indirect equity holders through any Parent Company of Holdings *pro rata* with their percentage interests in Holdings through RGH and TRG 1-P, in an aggregate amount such that each indirect equity holder of Holdings receives at least an amount sufficient to pay its income tax liabilities attributable to its indirect interest in Holdings and Rockport Group, assuming such equity holders are subject to tax at the maximum effective combined income tax rate applicable to an individual or corporation resident of New York, New York, whichever is higher for the relevant taxable year, to the extent solely related to the taxable income of Rockport Group for the relevant taxable year (which taxable income will include the taxable income of subsidiaries of Rockport Group that are similarly classified as partnerships or pass-through entities for U.S. federal income tax purposes) and assuming that all equity holders are subject to the maximum limitations on deductions applicable to individuals or corporations. For the avoidance of doubt, (i) the calculation of taxable income will be reduced to the extent of cumulative net taxable loss with respect to all prior taxable periods available to equity holders as an offset to taxable income (without regard to the personal circumstances of such holders), (ii) the calculation of taxable income shall take into account the deductibility of state and local taxes and current year losses allocated to such equity holders, (iii) the effective tax rate shall give effect to lower tax rates available based on the character of income and (iv) no Tax Distributions shall be available for tax obligations which are payable at the level of Rockport Group or its Subsidiaries. For purposes of clarity, all parties hereto understand that certain indirect equity holders of Holdings may receive tax distributions in excess of their actual tax liability attributable to their indirect interest in Holdings on account of such distributions being made in a pro rata manner.

"**Taxes**" means any and all present and future taxes, levies, imposts, duties, deductions, charges or withholdings (including backup withholding) imposed by any Governmental Authority, including any interest, additions to tax or penalties applicable thereto.

"**Termination Date**" has the meaning assigned to such term in the lead-in to Article 5.

"**Test Period**" means a period of four consecutive Fiscal Quarters.

"**Threshold Amount**" means **$10,000,000**.

"**Total Revolving Exposure**" means, at any time, the sum of the Revolving Exposures of all Lenders then outstanding.

"**Trade Accounts Receivable Component**" means the face amount of Eligible Trade Accounts Receivable multiplied by **85.0%**.

"**Trademark Assignment**" means that certain Trademark Assignment, dated as of the Closing Date, by and among New Balance, New Balance Licensing, and Rockport.

"**Transaction Costs**" means fees, premiums, expenses and other transaction costs (including original issue discount) payable or otherwise borne by Holdings, any Borrower and its subsidiaries in connection with the Transactions and the transactions contemplated thereby (including without limitation all costs, fees and expenses related to the Initial Closing or a Subsequent Closing (each as defined in the Master Purchase Agreement as in effect on the date hereof)) and, to the extent reimbursed by Holdings, any Borrower or its subsidiaries, any costs, fees or expenses paid by the Investors in connection with the Transactions and the transactions contemplated thereby.

"**Transactions**" means, collectively, (a) the execution, delivery and performance by the Loan Parties of the Loan Documents to which they are a party and the Credit Extensions made hereunder, (b) the Existing Debt Refinancing, (c) Acquisition and the other transactions contemplated by the Master Purchase Agreement, (d) the Equity Contribution, (e) the issuance of the Senior Notes and (f) the payment of the Transaction Costs.

"**Transition Services Agreement**" means the transition services agreement to be entered into as of the Closing Date, between Rockport Group or any of its Subsidiaries and Seller.

"**Transition Trademark License Agreement**" means that certain Transition Trademark License Agreement, dated as of the Closing Date, by and between New Balance and Rockport.

"**Treasury Capital Stock**" has the meaning assigned to such term in Section 6.05(a)(viii).

"**TRG 1-P**" has the meaning assigned to such term in the recitals to this Agreement.

"**TRG Holdings**" has the meaning assigned to such term in the recitals to this Agreement.

"**Trust Funds**" means any Cash or Cash Equivalents or other investment property comprised of (a) funds used or to be used for payroll and payroll taxes and other employee wage and benefit payments to or for the benefit of any Loan Party's employees, (b) funds used or to be used to pay all Taxes required to be collected, remitted or withheld (including, without limitation, federal, state, provincial and territorial withholding Taxes (including the employer's share thereof)) and (c) any other funds which any Loan Party (i) holds on behalf of another Person (other than Holdings or any of its Subsidiaries) or (ii) holds as an escrow or fiduciary for another Person.

"**Trust Fund Account**" means any account containing Cash consisting solely of Trust Funds.

"**Trust Fund Certificate**" means a certificate of a Responsible Officer of the Borrower Representative certifying (a) the type and amount of any Trust Funds (other than payroll and employee benefit payments, in each case, in the nature of discretionary contributions) contained or held in a Blocked Account, (b) that the failure to remit such Trust Funds to the Person entitled thereto could

reasonably be expected to result in personal, criminal or civil liability to any director, officer or employee of any Loan Party or any Subsidiary of any Loan Party under any applicable law and (c) that (x) the obligation requiring such Trust Funds is due and payable within **ten (10)** Business Days of delivery of such certificate and (y) amounts on deposit in any applicable Trust Fund Account are insufficient to make such payment.

"**Type**," when used in reference to any Loan or Borrowing, refers to whether the rate of interest on such Loan, or on the Loans comprising such Borrowing, is determined by reference to the LIBO Rate, the BA Rate, the Alternate Base Rate or the Canadian Prime Rate.

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

"**UK Holdings**" means Rockport Canada Holdings Ltd, a private company limited by shares incorporated under the laws of England and Wales with registered number 9544261.

"**Unrestricted Subsidiary**" means any subsidiary of Rockport Group designated by the Borrower Representative as an Unrestricted Subsidiary pursuant to Section 5.10 subsequent to the Closing Date.

"**U.S. Borrower**" has the meaning assigned to such term in the preamble to this Agreement.

"**U.S. Loan Parties**" means any Loan Party formed under the laws of the United States, any state thereof or the District of Columbia.

"**U.S. Obligations**" means all unpaid principal of and accrued and unpaid interest (including interest accruing during the pendency of any bankruptcy, insolvency, receivership or other similar proceeding, regardless of whether allowed or allowable in such proceeding) on the Loans made by the Lenders to the U.S. Borrowers, all LC Exposure in respect of Letters of Credit issued for the account of the U.S. Borrowers, all accrued and unpaid fees and all reasonable and documented out-of-pocket expenses, reimbursements, indemnities and all other advances to, debts, liabilities and obligations of the U.S. Loan Parties to the Lenders or to any Lender, the Administrative Agent, any Issuing Bank or any indemnified party arising under the Loan Documents in respect of any Loan or Letter of Credit, whether direct or indirect (including those acquired by assumption), absolute, contingent, due or to become due, now existing or hereafter arising.

"**U.S. Pension Plan**" means any employee pension benefit plan, as defined in Section 3(2) of ERISA (other than a Multiemployer Plan), subject to the provisions of Title IV of ERISA or Section 412 of the Code or Section 302 of ERISA, and in respect of which any Borrower or any of its Subsidiaries, or any of their respective ERISA Affiliates, is (or, if such plan were terminated, would under Section 4069 of ERISA be deemed to be) an "employer" as defined in Section 3(5) of ERISA.

"**U.S. Revolving Exposure**" means, with respect to any Lender at any time, the sum of (a) the outstanding principal amount of such Lender's Revolving Loans made to the U.S. Borrowers, (b) its LC Exposure in respect of Letters of Credit issued for the account of the U.S. Borrowers, (c) its Applicable Percentage of the aggregate principal amount of Swingline Loans made available to the U.S. Borrowers and outstanding at such time and (d) its Applicable Percentage of the aggregate principal amount of Protective Advances made to, on behalf of or in respect of the U.S. Borrowers and outstanding at such time.

"**U.S. Revolving Loan**" means a Revolving Loan made by the Lenders to any U.S. Borrower.

"**U.S. Swingline Lender**" means with respect to any Swingline Loans to any U.S. Borrower, the Administrative Agent, in its capacity as lender of Swingline Loans hereunder.

"**USA PATRIOT Act**" means The Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (Title III of Pub. L. No. 107-56 (signed into law October 26, 2001)).

"**Value**" means, with respect to any Inventory, its value determined on the basis of the lower of cost or market, calculated on a moving average cost basis, and excluding any portion of cost attributable to intercompany profit among any Borrower and its Affiliates.

"**Weekly Reporting Period**" means each period beginning on the date that Excess Availability shall have been less than the greater of (x) **15.0%** of the Line Cap and (y) **$9,000,000** and ending on the date that Excess Availability shall have been at least the greater of (x) **15.0%** of the Line Cap and (y) **$9,000,000** for **thirty (30)** consecutive calendar days.

"**Weighted Average Life to Maturity**" means, when applied to any Indebtedness at any date, the number of years obtained by dividing: (a) the sum of the products obtained by multiplying (i) the amount of each then remaining installment, sinking fund, serial maturity or other required payments of principal, including payment at final maturity, in respect thereof, by (ii) the number of years (calculated to the nearest one-twelfth) that will elapse between such date and the making of such payment; by (b) the then outstanding principal amount of such Indebtedness.

"**Wholly Owned Subsidiary**" of any Person means a subsidiary of such Person, **100.0%** of the Capital Stock of which (other than directors' qualifying shares or shares required by law to be owned by a resident of the relevant jurisdiction) shall be owned by such Person or by one or more Wholly Owned Subsidiaries of such Person.

"**Withholding Agent**" means any Loan Party and the Administrative Agent, as applicable.

Section 1.02 Classification of Loans and Borrowings. For purposes of this Agreement, Loans may be classified and referred to by Class (*e.g.*, a "Revolving Loan") or by Type (*e.g.*, a "LIBO Rate Loan") or by Class and Type (*e.g.*, a "LIBO Rate Revolving Loan"). Borrowings also may be classified and referred to by Class (*e.g.*, a "Revolving Borrowing") or by Type (*e.g.*, a "LIBO Rate Borrowing") or by Class and Type (*e.g.*, a "LIBO Rate Revolving Borrowing").

Section 1.03 Terms Generally.

(a) The definitions of terms herein shall apply equally to the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The words "include", "includes" and "including" shall be deemed to be followed by the phrase "without limitation". The word "will" shall be construed to have the same meaning and effect as the word "shall". Unless the context requires otherwise, (a) any definition of or reference to any agreement, instrument or other document herein shall be construed as referring to such agreement, instrument or other document as from time to time amended, restated, amended and restated, supplemented or otherwise modified, extended, refinanced or replaced (subject to any restrictions or qualifications on such amendments, restatements, amendment and restatements, supplements or modifications, extensions, refinancings or replacements set forth herein), (b) any reference to any law shall include all statutory and regulatory provisions consolidating, amending, replacing, supplementing or interpreting such law, (c) any reference herein to any Person shall be construed to include such Person's successors and permitted assigns, (d) the words "herein", "hereof" and

"hereunder", and words of similar import, shall be construed to refer to this Agreement in its entirety and not to any particular provision hereof, (e) all references herein to Articles, Sections, clauses, paragraphs, Exhibits and Schedules shall be construed to refer to Articles, Sections, clauses and paragraphs of, and Exhibits and Schedules to, this Agreement, (f) in the computation of periods of time from a specified date to a later specified date, the word "from" means "from and including", the words "to" and "until" mean "to but excluding" and the word "through" means "to and including" and (g) the words "asset" and "property" shall be construed to have the same meaning and effect and to refer to any and all tangible and intangible assets and properties, whether real (immovable), personal (movable) including Cash, securities, accounts and contract rights. For purposes of determining compliance at any time with Article 6, in the event that any Indebtedness, Lien, Restricted Payment, Restricted Debt Payment, contractual restriction, Investment, disposition or affiliate transaction, as applicable, meets the criteria of more than one of the categories of transactions or items permitted pursuant to any clause of such Sections 6.01 (other than Sections 6.01(a), (c), (w) and (y)), 6.02 (other than Sections 6.02(a) and (t)), 6.04, 6.05, 6.06, 6.07, 6.08 and 6.11, the Borrower Representative, in its sole discretion, may classify or reclassify such transaction or item (or portion thereof) and will only be required to include the amount and type of such transaction (or portion thereof) in any one category.

(b) For purposes of any Collateral located in the Province of Quebec or charged by any deed of hypothec (or any other Loan Document) and for all other purposes pursuant to which the interpretation or construction of a Loan Document may be subject to the laws of the Province of Quebec or a court or tribunal exercising jurisdiction in the Province of Quebec, (a) "personal property" shall be deemed to include "movable property," (b) "real property" shall be deemed to include "immovable property," (c) "tangible property" shall be deemed to include "corporeal property," (d) "intangible property" shall be deemed to include "incorporeal property," (e) "security interest," "mortgage" and "lien" shall be deemed to include a "hypothec," "prior claim" and a "resolutory clause," (f) all references to filing, registering or recording under the UCC or the PPSA shall be deemed to include publication under the Civil Code of Quebec and any reference to a "financing statement" shall include a reference to "an application for publication", (g) all references to "perfection" of or "perfected" Liens shall be deemed to include a reference to an "opposable" or "set up" Liens as against third parties, (h) any "right of offset," "right of setoff" or similar expression shall be deemed to include a "right of compensation," (i) "goods" shall be deemed to include "corporeal movable property" other than chattel paper, documents of title, instruments, money and securities, (j) an "agent" shall be deemed to include a "mandatary," (k) "fixtures" shall be deemed to include any "property which is deemed to be immovable under the laws of Québec" whether by accession or otherwise, (l) "construction liens" shall be deemed to include "legal hypothecs," (m) "joint and several" shall be deemed to include "solidary," (n) "gross negligence or wilful misconduct" shall be deemed to be "intentional or gross fault," (o) "beneficial ownership" shall be deemed to include "ownership on behalf of another as mandatary," (p) "easement" shall be deemed to include "servitude," (q) "priority" shall be deemed to include "prior claim," (r) "survey" shall be deemed to include "certificate of location and plan," and (s) "fee simple title" shall be deemed to include "absolute ownership." The parties hereto confirm that it is their wish that this Agreement and any other document executed in connection with the transactions contemplated herein be drawn up in the English language only (except if another language is required under any applicable law) and that all other documents contemplated thereunder or relating thereto, including notices, may also be drawn up in the English language only. *Les parties aux présentes confirment que c'est leur volonté que cette convention et les autres documents de crédit soient rédigés en langue anglaise seulement et que tous les documents, y compris tous avis, envisagés par cette convention et les autres documents peuvent être rédigés en la langue anglaise seulement (sauf si une autre langue est requise en vertu d'une loi applicable).*

Section 1.04 Accounting Terms; GAAP.

(a) Except as otherwise expressly provided herein, all financial statements to be delivered pursuant to this Agreement shall be prepared in accordance with GAAP as in effect from time to time and all terms of an accounting or financial nature that are used in calculating the Fixed Charge Coverage Ratio, the Consolidated Total Assets shall be construed and interpreted in accordance with GAAP, as in effect on the Closing Date unless otherwise agreed to by the Borrower Representative and the Required Lenders; provided that if the Borrower Representative notifies the Administrative Agent that the Borrower Representative requests an amendment to any provision hereof to eliminate the effect of any change occurring after the Closing Date in GAAP or in the application thereof on the operation of such provision (or if the Administrative Agent notifies the Borrower Representative that the Required Lenders request an amendment to any provision hereof for such purpose), regardless of whether any such notice is given before or after such change in GAAP or in the application thereof, then such provision shall be interpreted on the basis of GAAP as in effect and applied immediately before such change shall have become effective until such notice shall have been withdrawn or such provision amended in accordance herewith; provided, further, that if an amendment is requested by the Borrower Representative or the Required Lenders, then the Borrower Representative and the Administrative Agent shall negotiate in good faith to enter into an amendment of such affected provisions (without the payment of any amendment or similar fees to the Lenders) to preserve the original intent thereof in light of such change in GAAP or the application thereof subject to the approval of the Required Lenders (not to be unreasonably withheld, conditioned or delayed); provided, further, that all terms of an accounting or financial nature used herein shall be construed, and all computations of amounts and ratios referred to herein shall be made without giving effect to (i) any election under Accounting Standards Codification 825-10-25 (previously referred to as Statement of Financial Accounting Standards 159) (or any other Accounting Standards Codification or Financial Accounting Standard having a similar result or effect) to value any Indebtedness or other liabilities of Rockport Group or any subsidiary at "fair value," as defined therein and (ii) any treatment of Indebtedness in respect of convertible debt instruments under Accounting Standards Codification 470-20 (or any other Accounting Standards Codification or Financial Accounting Standard having a similar result or effect) to value any such Indebtedness in a reduced or bifurcated manner as described therein, and such Indebtedness shall at all times be valued at the full stated principal amount thereof.

(b) Notwithstanding anything to the contrary herein, financial ratios and tests (including the Fixed Charge Coverage Ratio and the amount of Consolidated Total Assets) contained in this Agreement that are calculated with respect to any Test Period during which any Subject Transaction occurs shall be calculated with respect to such Test Period and such Subject Transaction on a Pro Forma Basis; provided that for purposes of determining compliance with Section 6.18 as evidenced by a Compliance Certificate, any Subject Transaction occurring after the last day of the relevant Test Period and prior to the delivery of the Compliance Certificate with respect thereto shall be disregarded. Further, without limiting the proviso in the immediately preceding sentence, if since the beginning of any such Test Period and on or prior to the date of any required calculation of a financial ratio or test (x) a Subject Transaction shall have occurred or (y) any Person that subsequently became a Subsidiary or was merged, amalgamated or consolidated with or into Rockport Group or any of its Subsidiaries since the beginning of such Test Period shall have made any Subject Transaction, then, in each case, any applicable financial ratio or test shall be calculated on a Pro Forma Basis for such Test Period as if such Subject Transaction occurred at the beginning of the applicable Test Period.

(c) Notwithstanding anything to the contrary contained in paragraph (a) above or the definition of "Capital Lease," in the event of an accounting change requiring all leases to be capitalized, only those leases (assuming for purposes hereof that they were in existence on the date hereof) that would constitute Capital Leases on the date hereof shall be considered Capital Leases and all calculations and deliverables under this Agreement or any other Loan Document shall be made in accordance therewith (provided that all financial statements delivered to the Administrative Agent in accordance with the terms of this Agreement after the date of such accounting change shall contain a schedule showing the

adjustments necessary to reconcile such financial statements with GAAP as in effect immediately prior to such accounting change).

(d) For purposes of determining the permissibility of any action, change, transaction or event that by the terms of the Loan Documents requires a calculation of Consolidated Total Assets, Consolidated Total Assets shall be calculated at the time such action is taken, such change is made, such transaction is consummated or such event occurs, as the case may be, and no Default or Event of Default shall be deemed to have occurred solely as a result of a change in Consolidated Total Assets occurring after the time such action is taken, such change is made, such transaction is consummated or such event occurs, as the case may be.

Section 1.05 Effectuation of Transactions. Each of the representations and warranties of the Loan Parties contained in this Agreement and the other Loan Documents (and all corresponding definitions) are made after giving effect to the Transactions, unless the context otherwise requires.

Section 1.06 Timing of Payment of Performance; Times of Day. When payment of any obligation or the performance of any covenant, duty or obligation is stated to be due or performance required on a day which is not a Business Day, the date of such payment (other than as described in the definition of Interest Period) or performance shall extend to the immediately succeeding Business Day, and, in the case of any payment accruing interest, interest thereon shall be payable for the period of such extension. Unless otherwise specified herein, all references herein to times of day shall be references to New York City time (daylight or standard, as applicable).

Section 1.07 Currency Translations.

(a) For purposes of this Agreement and the other Loan Documents, where the permissibility of a transaction or determinations of required actions or circumstances depend upon compliance with, or are determined by reference to, amounts stated in dollars, such amounts shall be deemed to refer to dollars or Dollar Equivalents and any requisite currency translation shall be based on the Spot Selling Rate and the permissibility of actions taken under Article 6 shall not be affected by subsequent fluctuations in exchange rates (provided that if Indebtedness is incurred to refinance, replace or renew other Indebtedness, and such refinancing or renewal would cause the applicable dollar denominated limitation to be exceeded if calculated at the Spot Selling Rate, such dollar denominated restriction shall be deemed not to have been exceeded so long as (i) such refinancing, replacement or renewal Indebtedness is denominated in the same currency as such Indebtedness being refinanced, replaced or renewed and (ii) the principal amount of such refinancing or renewal Indebtedness does not exceed the principal amount of such Indebtedness being refinanced or renewed except as permitted under Section 6.01). For purposes of determining the Fixed Charge Coverage Ratio, amounts denominated in a currency other than Dollars will be converted to Dollars at the currency exchange rates used in preparing the applicable Borrower's financial statements corresponding to the applicable measurement period with respect to the applicable date of determination and will, in the case of Indebtedness, reflect the currency translation effects, determined in accordance with GAAP, of Hedge Agreements permitted hereunder for currency exchange risks with respect to the applicable currency in effect on the date of determination of the Dollar equivalent of such Indebtedness.

(b) For purposes of all calculations and determinations under this Agreement, any amount in any currency other than dollars shall be deemed to refer to dollars or Dollar Equivalents and any requisite currency translation shall be based on the Spot Selling Rate, and all certificates delivered under this Agreement, shall express such calculations or determinations in dollars or Dollar Equivalents.

(c) The Administrative Agent shall determine the Dollar Equivalent of (x) the Total Revolving Exposure based on the Spot Selling Rate (i) as of the end of each fiscal quarter of the applicable Borrower, (ii) on or about the date of the related notice requesting any extension of credit hereunder and (iii) on any other date, in its reasonable discretion, (y) any other amount to be converted into Dollars in accordance with the provisions hereof at the time of such conversion and (z) any amounts to be included in the Borrowing Base on any date, in its reasonable discretion.

ARTICLE 2 THE CREDITS

Section 2.01 Commitments. Subject to the terms and conditions set forth herein, each Lender agrees, severally and not jointly, to make U.S. Revolving Loans to the U.S. Borrowers and Canadian Revolving Loans to the Canadian Borrower from time to time during the Availability Period in an aggregate principal amount requested by the applicable Borrower that will not result in:

(a) such Lender's Revolving Exposure exceeding such Lender's Commitment;

(b) the Total Revolving Exposures exceeding the lesser of (i) the Aggregate Commitments and (ii) the Borrowing Base (such lesser amount, the "**Line Cap**"); and

(c) the Canadian Revolving Exposure exceeding the Canadian Sublimit.

Within the foregoing limits and subject to the terms and conditions set forth herein (including the Administrative Agent's authority, in its sole discretion, to make Protective Advances pursuant to the terms of Section 2.04), the Borrowers may borrow, repay and reborrow Revolving Loans.

Section 2.02 Loans and Borrowings.

(a) Each Loan (other than a Swingline Loan or a Protective Advance) shall be made as part of a Borrowing consisting of Loans of the same Class and Type made by the Lenders ratably in accordance with their respective Commitments of the applicable Class. Each Protective Advance and each Swingline Loan shall be made in accordance with the procedures set forth in Sections 2.04 and 2.05, respectively.

(b) Subject to Section 2.14, each Borrowing shall be comprised entirely of (i) ABR Loans and LIBO Rate Loans if denominated in Dollars or (ii) BA Rate Loans if denominated in Canadian Dollars, as the Borrower Representative may request in accordance herewith; provided that the U.S. Borrowers may only borrow Loans in Dollars. Each (i) U.S. Swingline Loan and each Protective Advance attributable to a U.S. Loan Party shall be an ABR Loan, (ii) each Canadian Swingline Loan shall be an ABR Loan if denominated in Dollars or shall bear interest at the Canadian Prime Rate plus the Applicable Rate then applicable to ABR Loans if denominated in Canadian Dollars, or (iii) each Protective Advance attributable to a Canadian Loan Party shall be an ABR Loan if denominated in Dollars or shall bear interest at the BA Rate with a BA Period of one month plus the Applicable Rate then applicable to BA Rate Loans if denominated in Canadian Dollars. Each Lender at its option may make any LIBO Rate Loan or BA Rate Loan by causing any domestic or foreign branch or Affiliate of such Lender to make such Loan; provided that (i) any exercise of such option shall not affect the obligation of the applicable Borrower to repay such Loan in accordance with the terms of this Agreement, (ii) such LIBO Rate Loan or BA Rate Loan, as applicable, shall be deemed to have been made and held by such Lender, and the obligation of the applicable Borrower to repay such LIBO Rate Loan or BA Rate Loan, as applicable, shall nevertheless be to such Lender for the account of such domestic or foreign branch or Affiliate of such Lender and (iii) in exercising such option, such Lender shall use reasonable efforts to minimize increased costs to the applicable Borrower resulting therefrom (which obligation of such Lender

shall not require it to take, or refrain from taking, actions that it determines would result in increased costs for which it will not be compensated hereunder or that it otherwise determines would be disadvantageous to it and in the event of such request for costs for which compensation is provided under this Agreement, the provisions of Section 2.15 shall apply); provided, further, that any such domestic or foreign branch or Affiliate of such Lender shall not be entitled to any greater indemnification under Section 2.17 with respect to such LIBO Rate Loan or BA Rate Loan, as applicable, than that which the applicable Lender was entitled on the date on which such Loan was made (except in connection with any indemnification entitlement arising as a result of a Change in Law after the date on which such Loan was made).

(c) At the commencement of each Interest Period for any LIBO Rate Borrowing and each BA Rate Period for any BA Rate Borrowing, such Borrowing shall comprise an aggregate principal amount that is an integral multiple of **$100,000** or **Cdn$100,000**, as applicable, and not less than **$300,000** or **Cdn$300,000**, as applicable. Each ABR Borrowing when made shall be in a minimum principal amount of **$100,000**; provided that an ABR Borrowing may be made in a lesser aggregate amount that is equal to the entire unused balance of the Aggregate Commitments that is required to finance the reimbursement of an LC Disbursement as contemplated by Section 2.06(e). Borrowings of more than one Type and Class may be outstanding at the same time; provided that there shall not at any time be more than a total of ten (10) different Interest Periods in effect for LIBO Rate Borrowings or ten (10) different BA Periods in effect for BA Rate Borrowings, as applicable, at any time outstanding.

(d) Notwithstanding any other provision of this Agreement, the applicable Borrower shall not nor shall it be entitled to, request, or to elect to convert or continue, any Borrowing if the Interest Period or BA Period, as applicable, requested with respect thereto would end after the maturity date applicable to such Loans.

Section 2.03 Requests for Borrowings. To request a Borrowing of Revolving Loans, the Borrower Representative shall notify the Administrative Agent of such request either in writing by delivery of a Borrowing Request (by hand delivery, fax or other electronic transmission (including ".pdf" or ".tif")) signed by the Borrower Representative or by telephone (a) in the case of a LIBO Rate Borrowing, or BA Rate Borrowing, not later than **12:00 noon**, Local Time, **three (3)** Business Days (or, in the case of a LIBO Rate Borrowing or BA Rate Borrowing to be made on the Closing Date, **two (2)** Business Days) before the date of the proposed Borrowing or (b) in the case of an ABR Borrowing, (including any such notice of an ABR Borrowing to finance the reimbursement of an LC Disbursement as contemplated by Section 2.06(e)) not later than **12:00 noon**, Local Time, on the date of the proposed Borrowing (or, in each case, such later time as shall be acceptable to the Administrative Agent). Each such telephonic Borrowing Request shall be irrevocable and shall be confirmed promptly by hand delivery, fax or other electronic transmission (including ".pdf" or ".tif") to the Administrative Agent of a written Borrowing Request signed by the Borrower Representative. Each such telephonic and written Borrowing Request shall specify the following information in compliance with Section 2.01:

(i) the name of the applicable Borrower(s) and whether such Borrowing is a U.S. Borrowing or a Canadian Borrowing;

(ii) the aggregate amount of the requested Borrowing and the currency that it is denominated;

(iii) the date of such Borrowing, which shall be a Business Day;

(iv) whether such Borrowing is to be an ABR Borrowing, a LIBO Rate Borrowing, or a BA Rate Borrowing;

(v) in the case of a LIBO Rate Borrowing or BA Rate Borrowing, the initial Interest Period or BA Period to be applicable thereto, which shall be a period contemplated by the definition of the term "Interest Period" or "BA Period", as applicable; and

(vi) the location and number of the applicable Borrower's account or any other designated account(s) to which funds are to be disbursed (the "**Funding Account**").

If no election as to the currency of Borrowing is specified, then a requested Borrowing shall be deemed requested in Dollars. If no election as to the name of the applicable Borrower is specified, then a requested Borrowing in Dollars shall be deemed requested by the U.S. Borrowers and a requested Borrowing in Canadian Dollars shall deemed requested by the Canadian Borrower. If no election as to the Type of Borrowing is specified, then a requested Borrowing in Dollars shall be a LIBO Rate Borrowing with an Interest Period of **one (1) month** and a requested Borrowing in Canadian Dollars shall be a BA Rate Borrowing with a BA Period of **one (1) month**. If no Interest Period is specified with respect to any requested LIBO Rate Borrowing, then the Borrower Representative shall be deemed to have selected an Interest Period of **one (1) month's** duration. If no BA Period is specified with respect to any requested BA Rate Borrowing, then the Borrower Representative shall be deemed to have selected a BA Period of **one (1) month's** duration. Promptly following receipt of a Borrowing Request in accordance with this Section, the Administrative Agent shall advise each Lender of the details thereof and of the amount of such Lender's Loan to be made as part of the requested Borrowing.

Section 2.04 Protective Advances.

(a) Subject to the limitations set forth below (and notwithstanding anything to the contrary in Section 4.02), the Administrative Agent is authorized by the Borrower Representative and the Lenders, from time to time in the Administrative Agent's sole discretion in the exercise of its commercially reasonable judgment (but shall have absolutely no obligation) to make Loans to the U.S. Borrowers or the Canadian Borrower, as applicable, on behalf of all Lenders at any time that any condition precedent set forth in Section 4.02 has not been satisfied or waived, which the Administrative Agent, in its Permitted Discretion, deems necessary or desirable (i) to preserve or protect the Collateral, or any portion thereof, (ii) to enhance the likelihood of, or maximize the amount of, repayment of the Loans and other Obligations or (iii) to pay any other amount chargeable to or required to be paid by the Borrowers pursuant to the terms of this Agreement, including payments of reimbursable expenses (including costs, fees, and expenses as described in Section 9.03) and other sums, in each case to the extent due and payable (and not in dispute by the Borrowers (acting in good faith)) under the Loan Documents (each such Loan, a "**Protective Advance**"). Any Protective Advance may be made in a principal amount that would cause the Total Revolving Exposure to exceed the Borrowing Base; provided that no Protective Advance may be made to the extent that, after giving effect to such Protective Advance (together with the outstanding principal amount of any outstanding Protective Advances), the aggregate principal amount of Protective Advances outstanding hereunder would exceed **10.0%** of the Borrowing Base as determined on the date of such proposed Protective Advance; and provided, further, that the Total Revolving Exposure shall not exceed the Aggregate Commitments. No Protective Advance may remain outstanding for more than **forty-five (45)** days without the consent of the Required Lenders unless a Liquidation is taking place. Each Protective Advance shall be secured by the Liens in favor of the Administrative Agent in and to the Collateral and shall constitute Obligations hereunder. All Protective Advances shall be ABR Borrowings or BA Rate Borrowings (with a BA Period of one month), as applicable. The Administrative Agent's authorization to make Protective Advances may be revoked at any time by the Required Lenders. Any such revocation must be in writing, with a copy to the Borrower Representative, and shall become effective prospectively upon the Administrative Agent's receipt thereof. The making of a Protective Advance on any one occasion shall not obligate the Administrative Agent to make any Protective Advance on any other occasion. At any time (and in any event no less than weekly)

that the conditions precedent set forth in Section 4.02 have been satisfied or waived, the Administrative Agent may request the Lenders to make a Revolving Loan to repay a Protective Advance. At any other time, the Administrative Agent may require the Lenders to fund their risk participations described in Section 2.04(b).

(b) Upon the making of a Protective Advance by the Administrative Agent (whether before or after the occurrence of a Default or Event of Default), each Lender shall be deemed, without further action by any party hereto, unconditionally and irrevocably to have purchased from the Administrative Agent without recourse or warranty, an undivided interest and participation in such Protective Advance in proportion to its Applicable Percentage. From and after the date, if any, on which any Lender is required to fund its participation in any Protective Advance purchased hereunder, the Administrative Agent shall promptly distribute to such Lender, such Lender's Applicable Percentage of all payments of principal and interest and all proceeds of Collateral (if any) received by the Administrative Agent in respect of such Protective Advance.

Section 2.05 Swingline Loans.

(a) Subject to the terms and conditions set forth herein, the U.S. Swingline Lender agrees to make Swingline Loans to the U.S. Borrowers in Dollars by way of ABR Loans and the Canadian Swingline Lender agrees to make Swingline Loans to the Canadian Borrower in Dollars by way of ABR Loans and Canadian Dollars by way of Canadian Prime Rate Loans from time to time during the Availability Period, in an aggregate principal amount at any time outstanding that will not result in (i) aggregate principal Dollar Equivalent amount of outstanding Swingline Loans outstanding to the Canadian Borrower exceeding $1,000,000, (ii) the aggregate principal amount of outstanding Swingline Loans outstanding to the U.S. Borrowers exceeding an aggregate amount equal to **$5,000,000** minus the amount outstanding pursuant to clause (i) above, or (ii) a breach of the limitations set out in Sections 2.01(a)-(d); provided that no Swingline Lender shall be required to make a Swingline Loan to refinance an outstanding Swingline Loan. Each Swingline Loan shall be in an integral multiple of **$100,000** or **Cdn$100,000** as applicable and not less than **$300,000** or **Cdn$300,000** as applicable, or such lesser amount as may be agreed by the Administrative Agent. Within the foregoing limits and subject to the terms and conditions set forth herein, the Borrowers may borrow, prepay and reborrow Swingline Loans. To request a Swingline Loan, the Borrower Representative shall notify the applicable Swingline Lender (with a copy to the Administrative Agent) of such request by telephone (confirmed by facsimile), not later than **2:00 p.m.**, Local Time, on the day of a proposed Swingline Loan. Each such notice shall be irrevocable and shall specify the requested date (which shall be a Business Day) and amount of the requested Swingline Loan, the applicable Borrower and the currency of such Swingline Loan. The applicable Swingline Lender shall make each Swingline Loan available to the applicable Borrower by means of a credit to the Funding Account or otherwise in accordance with the instructions of the applicable Borrower (including, in the case of a Swingline Loan made to finance the reimbursement of an LC Disbursement as provided in Section 2.06(e), by remittance to the applicable Issuing Bank) on the requested date of such Swingline Loan.

(b) If (x) Swingline Loans that are denominated in Dollars are outstanding as of the close of business on any Monday, the applicable Swingline Lender shall deliver written notice to the Administrative Agent not later than **1:00 p.m.**, Local Time, on the following Business Day requiring that the Lenders make Revolving Loans that are ABR Loans on such Business Day in an amount equal to the amount of such Swingline Loans denominated in Dollars outstanding as of the close of business on such Monday or (y) Swingline Loans that are denominated in Canadian Dollars are outstanding as of any date selected by the Canadian Swingline Lender, in its sole discretion, but not more frequently than on a weekly basis, the Canadian Swingline Lender shall deliver written notice to the Administrative Agent not later than **1:00 p.m.**, Local Time, on any such Business Day requiring that the Lenders make Revolving

Loans that are BA Rate Loans (with a period of one month) on the third Business Day following the date of such written notice in an amount equal to the amount of such Swingline Loans denominated in Canadian Dollars outstanding as of the close of business on the date of such written notice, in each case, as applicable, (the "**Refunded Swingline Loans**") based upon their Applicable Percentages; provided that, the Lenders shall not be required to make such Revolving Loans to the extent (but only to the extent) that such Loans would cause a breach of any of the limitations set out in Sections 2.01(a)-(d). Notwithstanding anything herein to the contrary, (i) the proceeds of such Revolving Loans made by the Lenders shall be immediately delivered by the Administrative Agent to the applicable Swingline Lender and applied to repay a corresponding portion of the Refunded Swingline Loans and (ii) on the day such Revolving Loans are made, such portion of the Refunded Swingline Loans paid shall no longer be outstanding as Swingline Loans. Notwithstanding the terms of Section 2.02, if any Swingline Loans remain outstanding upon the termination of the Commitments, to the extent the Commitments exceed the Total Revolving Exposure (the "**Excess Amount**") upon such termination of the Commitments, the applicable Swingline Lender shall be deemed to have sold to each Lender, and each Lender shall be deemed unconditionally and irrevocably to have so purchased from such Swingline Lender, without recourse or warranty, an undivided interest and participation, to the extent of such Lender's Applicable Percentage in the lesser of (i) such Excess Amount and (ii) such undivided interest and participation of each Lender in such outstanding Swingline Loans, and promptly upon receipt of notice from the Administrative Agent, each Lender shall pay to the Administrative Agent for the account of the applicable Swingline Lender the amount of such participation. Promptly following receipt by the Administrative Agent of any payment from the applicable Borrower with respect to any Swingline Loans in which a Lender has purchased a participation pursuant to this paragraph (b), the Administrative Agent shall distribute such payment to the applicable Swingline Lender or, to the extent that Lenders have made payments pursuant to this paragraph (b) to purchase such participation, then to such Lenders and the applicable Swingline Lender as their interests may appear.

(c) To the extent the Swingline Lender is also a Lender hereunder, in no event will the Swingline Lender, in its capacity as a Lender, be required to purchase participations from itself or be required to fund any Refunded Swingline Loans; rather if the settlement procedures described in clause (b) above are invoked, then the Swingline Lender's exposure with respect to its *pro rata* share as a Lender hereunder shall be deemed automatically converted to a participation or Refunded Swingline Loan, as applicable, and its exposure in its capacity as the Swingline Lender correspondingly reduced by such conversion.

Section 2.06 Letters of Credit.

(a) General. Subject to the terms and conditions set forth herein, (i) each Issuing Bank agrees, in each case in reliance upon the agreements of the other Lenders set forth in this Section 2.06 and in accordance with its customary policies and procedures, (A) from time to time on any Business Day during the period from the Closing Date to but not including the fifth Business Day prior to the Maturity Date or, if applicable, the Latest Maturity Date, upon the request of the Borrower Representative, to issue Letters of Credit denominated in Dollars only for the account of U.S. Borrowers (or their Subsidiaries) and denominated in Dollars or Canadian Dollars for the account of Canadian Borrower (or its Subsidiaries); provided that, in all cases, a Borrower will be the applicant; and to amend or renew Letters of Credit previously issued by it, in accordance with Section 2.06(b), and (B) to honor drafts under the Letters of Credit, and (ii) the Lenders severally agree to participate in the Letters of Credit issued pursuant to Section 2.06(d).

(b) Notice of Issuance, Amendment, Renewal, Extension; Certain Conditions. To request the issuance of a Letter of Credit (or the amendment, renewal or extension of an outstanding Letter of Credit), the Borrower Representative shall deliver to the applicable Issuing Bank and the

Administrative Agent, at least **three (3)** Business Days in advance of the requested date of issuance (or such shorter period as is acceptable to Administrative Agent and the applicable Issuing Bank), a request to issue a Letter of Credit, which shall specify that it is being issued under this Agreement, in the form of Exhibit F attached hereto (each a "**Letter of Credit Request**"), and in connection therewith, the applicable Issuing Bank shall be entitled to rely on the representation and warranty made by the Borrower Representative pursuant to Section 4.02 unless otherwise notified to the contrary by the Administrative Agent or any Lender. To request an amendment, extension or renewal of a Letter of Credit, the Borrower Representative shall submit such a request to the applicable Issuing Bank (with a copy to the Administrative Agent) at least **three (3)** Business Days in advance of the requested date of amendment, extension or renewal, identifying the Letter of Credit to be amended, renewed or extended, and specifying the proposed date (which shall be a Business Day) and other details of the amendment, extension or renewal. Requests for issuance, amendment, renewal or extension must be accompanied by such other information as shall be necessary to issue, amend, renew or extend such Letter of Credit. If requested by Administrative Agent or the applicable Issuing Bank, the Borrower Representative also shall submit a letter of credit application on such Issuing Bank's standard form in connection with any request for a Letter of Credit. In the event of any inconsistency between the terms and conditions of this Agreement and the terms and conditions of any form of letter of credit application or other agreement submitted by the Borrower Representative to, or entered into by the Borrower Representative with, the applicable Issuing Bank relating to any Letter of Credit, the terms and conditions of this Agreement shall control. A Letter of Credit shall be issued, amended, renewed or extended only if (and on issuance, amendment, renewal or extension of each Letter of Credit the Borrower Representative shall be deemed to represent and warrant that), after giving effect to such issuance, amendment, renewal or extension (i) the LC Exposure shall, subject to Sections 2.09(b) and 2.23(f), not exceed **$10,000,000**, and (ii) no breach of the limitations set out in Sections 2.01(a)-(d) will result from such issuance. Promptly after the delivery of any Letter of Credit or any amendment to a Letter of Credit to an advising bank with respect thereto or to the beneficiary thereof, the applicable Issuing Bank will also deliver to the Borrower Representative and the Administrative Agent a true and complete copy of such Letter of Credit or amendment. Upon receipt of such Letter of Credit or amendment, the Administrative Agent shall notify the Lenders, in writing, of such Letter of Credit or amendment, and if so requested by a Lender, the Administrative Agent will provide such Lender with copies of such Letter of Credit or amendment. With respect to Commercial Letters of Credit, each Issuing Bank shall on the first Business Day of each week submit to the Administrative Agent, by facsimile, a report detailing the daily aggregate total of Commercial Letters of Credit for the previous calendar week.

(c) Expiration Date.

(i) Each Standby Letter of Credit shall expire not later than the earlier of (A) the date one year after the date of the issuance of such Letter of Credit and (B) the date that is **five (5)** Business Days prior to the Maturity Date or, if applicable, the Latest Maturity Date; provided that any Standby Letter of Credit may provide for the automatic extension thereof for any number of additional periods each of up to one year in duration (none of which, in any event, shall extend beyond the date referred to in clause (B) of this paragraph (c)(i) unless cash collateralized or backstopped pursuant to arrangements reasonably satisfactory to the Issuing Bank thereof).

(ii) Each Commercial Letter of Credit shall expire on the earlier of (A) **180** days after the date of the issuance of such Letter of Credit and (B) the date that is **five (5)** Business Days prior to the Maturity Date or, if applicable, the Latest Maturity Date.

(d) Participations. By the issuance of a Letter of Credit (or an amendment to a Letter of Credit increasing the amount thereof) and without any further action on the part of the applicable

Issuing Bank or the Lenders, the applicable Issuing Bank hereby grants to each Lender, and each Lender hereby acquires from such Issuing Bank, a participation in such Letter of Credit equal to such Lender's Applicable Percentage of the aggregate amount available to be drawn under such Letter of Credit. In consideration and in furtherance of the foregoing, each Lender hereby absolutely and unconditionally agrees to pay to the Administrative Agent, for the account of the applicable Issuing Bank, such Lender's Applicable Percentage of each LC Disbursement made by such Issuing Bank and not reimbursed by the Borrowers on the date due as provided in paragraph (e) of this Section, or of any reimbursement payment required to be refunded to the Borrowers for any reason. Each Lender acknowledges and agrees that its obligation to acquire participations pursuant to this paragraph in respect of Letters of Credit is absolute and unconditional and shall not be affected by any circumstance whatsoever, including any amendment, renewal or extension of any Letter of Credit or the occurrence and continuance of a Default or Event of Default or reduction or termination of the Commitments, and that each such payment shall be made without any offset, abatement, withholding or reduction whatsoever. Notwithstanding the terms of Section 2.02, if any Letters of Credit remain outstanding upon the termination of the Commitments, to the extent the Commitments exceed the Total Revolving Exposure upon such termination of the Commitments, the Issuing Banks shall be deemed to have sold to each Lender, and each Lender shall be deemed unconditionally and irrevocably to have so purchased from the Issuing Banks, without recourse or warranty, an undivided interest and participation, to the extent of such Lender's Applicable Percentage, in the lesser of (i) such Excess Amount and (ii) such undivided interest and participation of each Lender in such outstanding Letters of Credit, each drawing thereunder and the obligations of the Borrowers under this Agreement and the other Loan Documents with respect thereto.

(e) Reimbursement. If the applicable Issuing Bank shall make any LC Disbursement in respect of a Letter of Credit, the applicable Borrower shall reimburse such LC Disbursement by paying to the Administrative Agent (or, in the case of Commercial Letters of Credit, the applicable Issuing Bank) an amount equal to such LC Disbursement not later than **1:00 p.m.**, Local Time, on the second Business Day immediately following the date the Borrower Representative receives notice under paragraph (g) of this Section of such LC Disbursement (or, if such notice is received less than two hours prior to the deadline for requesting ABR Borrowings pursuant to Section 2.03, on the third Business Day immediately following the date the Borrower Representative receives such notice); provided that the Borrower Representative may, subject to the conditions to borrowing set forth herein, request in accordance with Section 2.03 or 2.05 that such payment be financed with an ABR Borrowing or Swingline Loan in Dollars or by way of a BA Rate Borrowing (with a BA Period of one month) if in Canadian Dollars, as applicable, in an equivalent amount and, to the extent so financed, the applicable Borrower's obligation to make such payment shall be discharged and replaced by such Borrowing. If the applicable Borrower fails to make such payment when due, the Administrative Agent shall notify each Lender of the applicable LC Disbursement, the payment then due from the applicable Borrower in respect thereof and such Lender's Applicable Percentage thereof. Promptly following receipt of such notice, each Lender shall pay to the Administrative Agent its Applicable Percentage of the payment then due from the applicable Borrower, in the same manner as provided in Section 2.07 with respect to Loans made by such Lender (and Section 2.07 shall apply, *mutatis mutandis*, to the payment obligations of the Lenders), and the Administrative Agent shall promptly pay to the applicable Issuing Bank the amounts so received by it from the Lenders. Promptly following receipt by the Administrative Agent of any payment from a Borrower pursuant to this paragraph, the Administrative Agent shall distribute such payment to the applicable Issuing Bank or, to the extent that Lenders have made payments pursuant to this paragraph to reimburse such Issuing Bank, then to such Lenders and such Issuing Bank as their interests may appear.

(f) Obligations Absolute. The Borrowers' obligation to reimburse LC Disbursements as provided in paragraph (e) of this Section shall be absolute, unconditional and irrevocable, and shall be performed strictly in accordance with the terms of this Agreement under any and all circumstances whatsoever and irrespective of (i) any lack of validity or enforceability of any Letter of

Credit or this Agreement, or any term or provision therein, (ii) any draft or other document presented under a Letter of Credit proving to be forged, fraudulent or invalid in any respect or any statement therein being untrue or inaccurate in any respect, (iii) payment by the applicable Issuing Bank under a Letter of Credit against presentation of a draft or other document that does not comply with the terms of such Letter of Credit or (iv) any other event or circumstance whatsoever, whether or not similar to any of the foregoing, that might, but for the provisions of this Section, constitute a legal or equitable discharge of, or provide a right of setoff against, any Borrower's obligations hereunder. Neither the Administrative Agent, the Lenders nor any Issuing Bank, nor any of their Related Parties, shall have any liability or responsibility by reason of or in connection with the issuance or transfer of any Letter of Credit or any payment or failure to make any payment thereunder (irrespective of any of the circumstances referred to in the preceding sentence), or any error, omission, interruption, loss or delay in transmission or delivery of any draft, notice or other communication under or relating to any Letter of Credit (including any document required to make a drawing thereunder), any error in interpretation of technical terms or any consequence arising from causes beyond the control of such Issuing Bank; provided that the foregoing shall not be construed to excuse such Issuing Bank from liability to the Borrowers to the extent of any direct damages (as opposed to consequential damages, claims in respect of which are hereby waived by the Borrowers to the extent permitted by applicable law) suffered by the Borrowers that are caused by such Issuing Bank's failure to exercise care when determining whether drafts and other documents presented under a Letter of Credit comply with the terms thereof. The parties hereto expressly agree that, in the absence of gross negligence, bad faith or willful misconduct on the part of applicable Issuing Bank (as finally determined by a court of competent jurisdiction), such Issuing Bank shall be deemed to have exercised care in each such determination. In furtherance of the foregoing and without limiting the generality thereof, the parties agree that, with respect to documents presented which appear on their face to be in substantial compliance with the terms of a Letter of Credit, the applicable Issuing Bank may, in its sole discretion, either accept and make payment upon such documents without responsibility for further investigation, regardless of any notice or information to the contrary, or refuse to accept and make payment upon such documents if such documents are not in strict compliance with the terms of such Letter of Credit.

(g) Disbursement Procedures. The applicable Issuing Bank shall, promptly following its receipt thereof, examine all documents purporting to represent a demand for payment under a Letter of Credit. Such Issuing Bank shall promptly notify the Administrative Agent and the Borrower Representative by telephone (confirmed by facsimile) of such demand for payment and whether such Issuing Bank has made or will make an LC Disbursement thereunder; provided that any failure to give or delay in giving such notice shall not relieve the Borrowers of their obligation to reimburse such Issuing Bank and the Lenders with respect to any such LC Disbursement.

(h) Interim Interest. If an Issuing Bank shall make any LC Disbursement, then, unless the Borrowers shall reimburse such LC Disbursement in full on the date such LC Disbursement is made, the unpaid amount thereof shall bear interest, for each day from and including the date such LC Disbursement is made to but excluding the date that the Borrowers reimburse such LC Disbursement, at the rate per annum then applicable to Loans that are ABR Loans if denominated in Dollars and at the then applicable BA Rate (with a BA Period of one month) plus the Applicable Rate then applicable to BA Rate Loans if denominated in Canadian Dollars; provided that if the Borrowers fail to reimburse such LC Disbursement when due pursuant to paragraph (e) of this Section, then Section 2.13(c) shall apply. Interest accrued pursuant to this paragraph shall be for the account of the applicable Issuing Bank, except that interest accrued on and after the date of payment by any Lender pursuant to paragraph (e) of this Section to reimburse such Issuing Bank shall be for the account of such Lender to the extent of such payment.

(i) Replacement of an Issuing Bank. An Issuing Bank may be replaced with the consent of the Administrative Agent (not to be unreasonably withheld or delayed) at any time by written agreement among the Borrower Representative, the Administrative Agent and the successor Issuing Bank. The Administrative Agent shall notify the Lenders of any such replacement of an Issuing Bank. At the time any such replacement shall become effective, the Borrowers shall pay all unpaid fees accrued for the account of the replaced Issuing Bank pursuant to Section 2.12(b). From and after the effective date of any such replacement, (i) the successor Issuing Bank shall have all the rights and obligations of the replaced Issuing Bank under this Agreement with respect to Letters of Credit to be issued thereafter and (ii) references herein to the term "Issuing Bank" shall be deemed to refer to such successor or to any previous Issuing Bank, or to such successor and all previous Issuing Banks, as the context shall require. After the replacement of an Issuing Bank hereunder, the replaced Issuing Bank shall remain a party hereto and shall continue to have all the rights and obligations of an Issuing Bank under this Agreement with respect to Letters of Credit issued by it prior to such replacement, but shall not be required to issue additional Letters of Credit. An Issuing Bank may resign at any time by giving **thirty (30)** days prior written notice to the Lenders, the other Issuing Banks and the Borrower Representative. From the effective date of such resignation, such Issuing Bank shall have no obligation to issue, amend, renew, extend or otherwise modify any Letter of Credit, but shall continue to have all rights and other obligations of an Issuing Bank hereunder relating to any Letter of Credit issued by it prior to such date.

(j) Cash Collateralization.

(i) If any Event of Default shall occur and be continuing, then on the Business Day that the Borrower Representative receives notice from the Administrative Agent or the Required Lenders demanding the deposit of Cash collateral pursuant to this paragraph (j), upon such demand, the Borrowers shall deposit, in an interest-bearing account with the Administrative Agent, in the name of the Administrative Agent and for the benefit of the Lenders (the "**LC Collateral Account**"), an amount in Cash (in Dollars and/or Canadian Dollars as applicable) equal to **100.0%** of the LC Exposure as of such date; provided that the obligation to deposit such Cash collateral shall become effective immediately, and such deposit shall become immediately due and payable, without demand or other notice of any kind, upon the occurrence of any Event of Default with respect to any Borrower described in Section 7.01(f) or (g).

(ii) Any such deposit under clause (i) above shall be held by the Administrative Agent as collateral for the payment and performance of the Secured Obligations in accordance with the provisions of this paragraph (j). The Administrative Agent shall have exclusive dominion and control, including the exclusive right of withdrawal, over such account and each Borrower hereby grants the Administrative Agent a security interest and Lien in the LC Collateral Account. Interest or profits, if any, on such investments shall accumulate in such account. Monies in such account shall be applied by the Administrative Agent to reimburse the applicable Issuing Bank for LC Disbursements for which it has not been reimbursed and, to the extent not so applied, shall be held for the satisfaction of the reimbursement obligations of the Borrowers for the LC Exposure at such time or, if the maturity of the Loans has been accelerated (but subject to the consent of the Required Lenders), be applied to satisfy other Secured Obligations. If any Borrower is required to provide an amount of Cash collateral hereunder as a result of the occurrence of an Event of Default, such amount (together with all interest and other earnings with respect thereto, to the extent not applied as aforesaid) shall be returned to such Borrower promptly but in no event later than **three (3)** Business Days, after such Event of Default has been cured or waived.

Section 2.07 Funding of Borrowings.

(a) Each Lender shall make each Loan to be made by it hereunder on the proposed date thereof by wire transfer of immediately available funds by **2:30 p.m.**, Local Time, to the account of the Administrative Agent most recently designated by it for such purpose by notice to the Lenders in an amount equal to such Lender's respective Applicable Percentage; provided that Swingline Loans shall be made as provided in Section 2.05. The Administrative Agent will make such Loans available to the applicable Borrower by promptly crediting the amounts so received, in like funds, to the Funding Account or as otherwise directed by the Borrower Representative; provided that ABR Revolving Loans and Swingline Loans made to finance the reimbursement of (i) an LC Disbursement as provided in Section 2.06(e) shall be remitted by the Administrative Agent to the applicable Issuing Bank and (ii) a Protective Advance shall be retained by the Administrative Agent to be applied as contemplated by Section 2.04 (and the Administrative Agent shall deliver to the applicable Borrower a reasonably detailed accounting of such application). This Section 2.07 shall not apply to Swingline Borrowings or Protective Advances, which may not be converted or continued.

(b) Unless the Administrative Agent shall have received notice from a Lender prior to the proposed date of any Borrowing that such Lender will not make available to the Administrative Agent such Lender's share of such applicable Borrowing, the Administrative Agent may assume that such Lender has made such share available on such date in accordance with paragraph (a) of this Section and may, in reliance upon such assumption, make available to the applicable Borrower a corresponding amount. In such event, if a Lender has not in fact made its share of the applicable Borrowing available to the Administrative Agent, then the applicable Lender and the applicable Borrower severally agree to pay to the Administrative Agent forthwith on demand (without duplication) such corresponding amount with interest thereon, subject to the *Interest Act* (Canada) if applicable, for each day from and including the date such amount is made available to the applicable Borrower to but excluding the date of payment to the Administrative Agent, at (i) in the case of such Lender, the greater of the Federal Funds Effective Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation or (ii) in the case of the applicable Borrower, the interest rate applicable to Loans comprising such Borrowing at such time, subject to the *Interest Act* (Canada) if applicable. If such Lender pays such amount to the Administrative Agent, then such amount shall constitute such Lender's Loan included in such Borrowing and the applicable Borrower's obligation to repay the Administrative Agent such corresponding amount pursuant to this Section 2.07(b) shall cease. If the applicable Borrower pays such amount to the Administrative Agent, the amount so paid shall constitute a repayment of such Borrowing by such amount. Nothing herein shall be deemed to relieve any Lender from its obligation to fulfill its Commitment or to prejudice any rights which the Administrative Agent or the applicable Borrower or any other Loan Party may have against any Lender as a result of any default by such Lender hereunder.

Section 2.08 Type; Interest Elections.

(a) Each Borrowing initially shall be of the Type specified in the applicable Borrowing Request and, in the case of a LIBO Rate Borrowing or BA Rate Borrowing, shall have an initial Interest Period as specified in such Borrowing Request. Thereafter, the Borrower Representative may elect to convert such Borrowing to a different Type or to continue such Borrowing and, in the case of a LIBO Rate Borrowing or BA Rate Borrowing, may elect Interest Periods or BA Periods, as applicable, therefor, all as provided in this Section; provided that Loans in Dollars may only be converted to or continued in Loans in Dollars and Loans in Canadian Dollars may only be continued in Loans in Canadian Dollars. The Borrower Representative may elect different options with respect to different portions of the affected Borrowing, in which case each such portion shall be allocated ratably among the Lenders holding the Loans comprising such Borrowing, based upon their Applicable Percentages and the Loans comprising each such portion shall be considered a separate Borrowing.

(b) To make an election pursuant to this Section, the Borrower Representative shall notify the Administrative Agent of such election either delivered in writing (by hand delivery, fax or other electronic transmission (including ".pdf" or ".tif")) or by telephone by the time that a Borrowing Request would be required under Section 2.03 if the Borrower Representative were requesting a Borrowing of the Type resulting from such election to be made on the effective date of such election. Each such telephonic Interest Election Request shall be irrevocable and shall be confirmed promptly by hand delivery, fax or other electronic transmission (including ".pdf" or ".tif") to the Administrative Agent of a written Interest Election Request signed by the Borrower Representative.

(c) Each telephonic and written Interest Election Request shall specify the following information in compliance with Section 2.02:

(i) the name of the applicable Borrower and the Borrowing to which such Interest Election Request applies and, if different options are being elected with respect to different portions thereof, the portions thereof to be allocated to each resulting Borrowing (in which case the information to be specified pursuant to clauses (iii) and (iv) below shall be specified for each resulting Borrowing);

(ii) the effective date of the election made pursuant to such Interest Election Request, which shall be a Business Day;

(iii) whether the resulting Borrowing is to be an ABR Borrowing or a LIBO Rate Borrowing or a BA Rate Borrowing; and

(iv) if the resulting Borrowing is (i) a LIBO Rate Borrowing, the Interest Period to be applicable thereto after giving effect to such election, which shall be a period contemplated by the definition of the term "Interest Period" or (ii) a BA Rate Borrowing, the BA Period to be applicable thereto after giving effect to such election, which shall be a period contemplated by the definition of the term "BA Period".

If any such Interest Election Request requests a LIBO Rate Borrowing or BA Rate Borrowing but does not specify an Interest Period or BA Period, as applicable, then the Borrower Representative shall be deemed to have selected an Interest Period or BA Period, as applicable, of **one (1) month's** duration.

(d) Promptly following receipt of an Interest Election Request, the Administrative Agent shall advise each Lender of the details thereof and of such Lender's portion of each resulting Borrowing.

(e) If the Borrower Representative fails to deliver a timely Interest Election Request with respect to a LIBO Rate Borrowing or BA Rate Borrowing prior to the end of the Interest Period or BA Period applicable thereto, then, unless such Borrowing is repaid as provided herein, at the end of such Interest Period or BA Period such Borrowing shall be converted to a LIBO Rate Borrowing or BA Rate Borrowing, as applicable, with an Interest Period or BA Period, as applicable, of **one (1) month**. Notwithstanding any contrary provision hereof, if an Event of Default has occurred and is continuing and the Administrative Agent, at the request of the Required Lenders, so notifies the Borrower Representative, then, so long as an Event of Default is continuing (i) no outstanding Borrowing may be converted to or continued as a LIBO Rate Borrowing or continued as a BA Rate Borrowing at the end of the then-current Interest Period or BA Period applicable thereto and (ii) unless repaid, each LIBO Rate Borrowing shall be converted to an ABR Borrowing at the end of the then-current Interest Period applicable thereto.

Section 2.09 Termination and Reduction of Commitments.

(a) Unless previously terminated, all Commitments shall terminate on the Maturity Date or, if applicable, the Latest Maturity Date.

(b) Upon delivering the notice required by Section 2.09(d), the Borrower Representative may at any time terminate the Commitments upon (i) the payment in full in Cash of all outstanding Loans, together with accrued and unpaid interest thereon, (ii) the cancellation and return of all outstanding Letters of Credit (or alternatively, with respect to each such Letter of Credit, the furnishing to the Administrative Agent of a Cash deposit (or if reasonably satisfactory to the Administrative Agent, a backup standby letter of credit) in Dollars and/or Canadian Dollars, as applicable, equal to **102.0%** of the LC Exposure as of such date) and (iii) the payment in full of all accrued and unpaid fees and all reimbursable expenses and other Obligations then due, together with accrued and unpaid interest (if any) thereon.

(c) Upon delivering the notice required by Section 2.09(d), the Borrower Representative may from time to time reduce the Commitments; provided that (i) each reduction of the Commitments shall be in an amount that is an integral multiple of **$1,000,000** and not less than **$1,000,000**, (ii) any such reduction shall also reduce the Canadian Sublimit by a proportional amount and (iii) the Borrower Representative shall not reduce the Commitments if, after giving effect to any concurrent prepayment of the Revolving Loans in accordance with Section 2.10 or Section 2.11, a breach of the limitations set out in Sections 2.01(a)-(d) would result.

(d) The Borrower Representative shall notify the Administrative Agent of any election to terminate or reduce the Commitments under paragraph (b) or (c) of this Section at least **three (3)** Business Days prior to the effective date of such termination or reduction, specifying such election and the effective date thereof. Promptly following receipt of any notice, the Administrative Agent shall advise the Lenders of the contents thereof. Each notice delivered by the Borrower Representative pursuant to this Section shall be irrevocable; provided that a notice of termination of the Commitments delivered by the Borrower Representative may state that such notice is conditioned upon the effectiveness of other transactions, in which case such notice may be revoked by the Borrower Representative (by notice to the Administrative Agent on or prior to the specified effective date) if such condition is not satisfied. Any termination or reduction of the Commitments pursuant to this Section 2.09 shall be permanent. Upon any reduction of the Commitments, the Commitment of each Lender shall be reduced by such Lender's Applicable Percentage of such reduction amount.

Section 2.10 Repayment of Loans; Evidence of Debt.

(a) The Borrowers hereby unconditionally promise to pay (on a joint and several basis) (i) to the Administrative Agent for the account of each Lender the then unpaid principal amount of each Revolving Loan on the Maturity Date or, if applicable, the Latest Maturity Date, (ii) to the Administrative Agent the then unpaid amount of each Protective Advance on the earliest of (A) the Maturity Date or, if applicable, the Latest Maturity Date, (B) within **three (3)** Business Days following receipt of written demand therefor by the Administrative Agent and (C) **forty-five (45)** days (or such longer period as may be consented to by Required Lenders) after such Protective Advance is made, (iii) to the Swingline Lender the then unpaid principal amount of each Swingline Loan on the Maturity Date or, if applicable, the Latest Maturity Date; provided that on each date that a Revolving Loan is made while any Protective Advance is outstanding, the applicable Borrower shall repay all Protective Advances with the proceeds of such Revolving Loan then outstanding. On the Maturity Date or, if applicable, the Latest Maturity Date, the applicable Borrower shall cancel and return all outstanding Letters of Credit (or alternatively, with respect to each such Letter of Credit, furnish to the Administrative Agent a Cash

deposit (or if reasonably satisfactory to the Administrative Agent, a backup standby letter of credit) in Dollars and/or Canadian Dollars, as applicable, equal to **102.0%** of the LC Exposure as of such date) and make payment in full in Cash of all accrued and unpaid fees and all reimbursable expenses and other Obligations then due, together with accrued and unpaid interest (if any) thereon.

(b) Each Lender shall maintain in accordance with its usual practice an account or accounts evidencing the indebtedness of the applicable Borrower to such Lender resulting from each Loan made by such Lender, including the amounts of principal and interest payable and paid to such Lender from time to time hereunder.

(c) The Administrative Agent shall maintain accounts in which it shall record (i) the amount of each Loan made hereunder, the Class and Type thereof and the Interest Period or BA Period (if any) applicable thereto, (ii) the amount of any principal or interest due and payable or to become due and payable from the applicable Borrower to each Lender hereunder and (iii) the amount of any sum received by the Administrative Agent hereunder for the account of the Lenders and each Lender's share thereof.

(d) The entries made in the accounts maintained pursuant to paragraph (b) or (c) of this Section shall be prima facie evidence of the existence and amounts of the obligations recorded therein (absent manifest error); provided that the failure of any Lender or the Administrative Agent to maintain such accounts or any manifest error therein shall not in any manner affect the obligation of the applicable Borrower to repay the Loans in accordance with the terms of this Agreement; provided, further, that in the event of any inconsistency between the accounts maintained by the Administrative Agent pursuant to paragraph (c) of this Section and any Lender's records, the accounts of the Administrative Agent shall govern.

(e) Any Lender may request that Loans made by it be evidenced by a Promissory Note. In such event, the applicable Borrower shall prepare, execute and deliver to such Lender a Promissory Note payable to such Lender and its registered assigns. Thereafter, the Loans evidenced by such Promissory Note and interest thereon shall at all times (including after assignment pursuant to Section 9.05) be represented by one or more Promissory Notes in such form payable to the payee named therein and its registered assigns.

Section 2.11 Prepayment of Loans.

(a) Upon prior notice in accordance with paragraph (d) of this Section, the applicable Borrower shall have the right at any time and from time to time to prepay any Borrowing in whole or in part without premium or penalty (but subject to Section 2.16). Prepayments made by a Borrower pursuant to this Section 2.11(a), *first*, shall be applied ratably to the Swingline Loans and to outstanding LC Disbursements and *second*, shall be applied ratably to the outstanding Loans of such Borrower.

(b) Except for Protective Advances permitted under Section 2.04, in the event and on each Business Day on which the Total Revolving Exposure exceeds the Line Cap or the Canadian Exposure exceeds the Canadian Sublimit (whether as a result of fluctuations in the currency rates or otherwise) the applicable Borrower shall prepay the Revolving Loans or Swingline Loans and/or reduce LC Exposure, in an aggregate amount equal to such excess by taking any of the following actions as it shall determine at its sole discretion: (A) prepayment of Revolving Loans or Swingline Loans or (B) with respect to such excess LC Exposure, deposit of Cash in the LC Collateral Account or "backstopping" or replacement of such Letters of Credit, in each case, in an amount equal to **100.0%** of such excess LC Exposure (but in any event, such payments of Revolving Loans or Swingline Loans and such deposits of Cash or "backstopping" or replacements of Letters of Credit shall in the aggregate be equal to such excess); provided that (1) if the circumstances described in this clause (b) are the result of the imposition

of or increase in a Reserve, the applicable Borrower shall not be required to make the initial prepayment or deposit until the fifth Business Day following the date on which the Borrower Representative receives notice form the Administrative Agent pursuant to Section 2.24 of such imposition or increase and (2) the LC Exposure may not be reduced to less than zero.

(c) At all times after the occurrence and during the continuance of a Cash Dominion Period and notification thereof by the Administrative Agent to the applicable Borrower (subject to the provisions of Section 2.18(b) and to the terms of the Pledge and Security Agreement), on each Business Day, at or before **1:00 p.m.**, New York City time, the Administrative Agent shall apply all immediately available funds credited to the Administrative Agent Account or otherwise received from the Loan Parties by Administrative Agent, in the following order, *first* to pay any fees, indemnities or expense reimbursements then due to the Administrative Agent, the Issuing Banks and the Lenders constituting Obligations, *pro rata*, *second* to pay interest due and payable in respect of any Revolving Loans (including Swingline Loans) and any Protective Advances that may be outstanding, *pro rata*, *third* to prepay the principal of any Protective Advances that may be outstanding, *pro rata*, *fourth* to prepay the principal of the Loans (including Swingline Loans) and to cash collateralize at **100.0%** of the aggregate face amount of outstanding LC Exposure denominated in Dollars and at 102% of the aggregate face amount of outstanding LC Exposure denominated in Canadian Dollars, *pro rata*, *fifth* to pay any other Obligations (other than contingent indemnification obligations for which no claim has yet been made) then due, in such order and manner as the Administrative Agent determines; *sixth*, to pay Secured Obligations in connection with Banking Services Obligations or Secured Hedging Obligations then due, *pro rata*, and *seventh*, as the applicable Borrower may direct.

(d) The Borrower Representative shall notify the Administrative Agent (and, in the case of prepayment of a Swingline Loan, the Swingline Lender) by telephone (confirmed in writing) of any prepayment hereunder (i) in the case of prepayment of a LIBO Rate Borrowing or BA Rate Borrowing, not later than **1:00 p.m.**, Local Time, **three (3)** Business Days before the date of prepayment, (ii) in the case of prepayment of an ABR Borrowing, not later than **1:00 p.m.**, Local Time, on the day of prepayment, or (iii) in the case of prepayment of a Swingline Loan, not later than **1:00 p.m.**, New York City time, on the date of prepayment. Each such notice shall be irrevocable and shall specify the prepayment date and the principal amount of each Borrowing or portion thereof to be prepaid; provided that, if a notice of prepayment is given in connection with a conditional notice of termination of the Commitments as contemplated by Section 2.09, then such notice of prepayment may be revoked if such notice of termination is revoked in accordance with Section 2.09. Promptly following receipt of any such notice relating to a Borrowing, the Administrative Agent shall advise the Lenders of the contents thereof. Each partial prepayment of any Borrowing shall be in an amount that would be permitted in the case of an advance of a Borrowing of the same Type as provided in Section 2.02(c) and shall be the same currency as the Borrowing being paid. Each prepayment of a Borrowing pursuant to this Section shall be applied as provided in paragraph (a) of this Section.

Section 2.12 Fees.

(a) The Borrower Representative agrees to pay to the Administrative Agent for the account of each Lender a commitment fee, which shall accrue at a rate equal to the Commitment Fee Rate per annum on the average daily amount of the Available Commitment of such Lender during the period from and including the Closing Date through the date on which such Lender's Commitments terminate. Accrued commitment fees shall be payable in arrears on the last Business Day of each Fiscal Quarter for the quarterly period then ended and on the date on which the Commitments terminate. All commitment fees shall be computed on the basis of a year of **360** days and shall be payable for the actual number of days elapsed (including the first day but excluding the last day). For purposes of calculating the

commitment fees only, no portion of the Commitments shall be deemed utilized as a result of outstanding Swingline Loans.

(b) The Borrower Representative agrees to pay, on behalf of the applicable Borrowers (i) to the Administrative Agent for the account of each Lender a participation fee with respect to its participations in Standby Letters of Credit, which shall accrue at the same Applicable Rate used to determine the interest rate applicable to LIBO Rate Loans on the daily amount of such Lender's LC Exposure in respect of Standby Letters of Credit (excluding any portion thereof attributable to unreimbursed LC Disbursements), during the period from and including the Closing Date through the later of the date on which such Lender's Commitment terminates and the date on which such Lender ceases to have any LC Exposure in respect of Standby Letters of Credit, (ii) to the Administrative Agent for the account of each Lender a participation fee with respect to its participations in Commercial Letters of Credit, which shall accrue at the same Applicable Rate used to determine the interest rate applicable to LIBO Rate Loans (in the case of LC Exposure in Dollars) and BA Rate Loans (in the case of LC Exposure in Canadian Dollars), on the daily amount of such Lender's LC Exposure in respect of Commercial Letters of Credit (excluding any portion thereof attributable to unreimbursed LC Disbursements), during the period from and including the Closing Date through the later of the date on which such Lender's Commitment terminates and the date on which such Lender ceases to have any LC Exposure in respect of Commercial Letters of Credit, and (iii) to each Issuing Bank, for its own account, a fronting fee, in respect of each Letter of Credit issued by such Issuing Bank for the period from the date of issuance of such Letter of Credit through the expiration date of such Letter of Credit (or if terminated on an earlier date, to the termination date of such Letter of Credit), computed at a rate equal to **0.125%** per annum of the daily stated amount of such Letter of Credit, as well as such Issuing Bank's standard fees with respect to the issuance, amendment, renewal or extension of any Letter of Credit or processing of drawings thereunder. Such fee shall be payable in Dollars in respect of Letters of Credit denominated in Dollars and Canadian Dollars in respect of Letters of Credit denominated in Canadian Dollars. Participation fees and fronting fees shall be payable in arrears on the last Business Day of each Fiscal Quarter for the quarterly period then ended; provided that all such fees shall be payable on the date on which the Commitments terminate and any such fees accruing after the date on which the Commitments terminate shall be payable on demand. Any other fees payable to any Issuing Bank pursuant to this paragraph shall be payable within **thirty (30)** days after written demand (accompanied by reasonable back-up documentation therefor). All participation fees and fronting fees shall be computed on the basis of a year of **360** days and shall be payable for the actual number of days elapsed.

(c) Rockport Group agrees to pay to the Administrative Agent, for its own account, the agency and administration fees set forth in the Fee Letter, payable in the amounts and at the times specified therein or as so otherwise agreed upon by Rockport Group and the Administrative Agent, and such other fees as may otherwise be separately agreed upon from time to time by Rockport Group and the Administrative Agent in writing.

(d) All fees payable hereunder shall be paid on the dates due, in immediately available funds, to the Administrative Agent (or to the applicable Issuing Bank, in the case of fees payable to it) for distribution, in the case of commitment fees and participation fees, to the Lenders. Fees paid shall not be refundable under any circumstances except as otherwise provided in the Fee Letter.

Section 2.13 Interest.

(a) The Loans comprising each ABR Borrowing (including each Swingline Loan made to a U.S. Borrower and each Protective Advance attributable to any Loan Party other than a Canadian Loan Party) shall bear interest at the Alternate Base Rate *plus* the Applicable Rate.

(b) The Loans comprising each Protective Advance attributable to any Canadian Loan Party or any amount converted to a BA Rate Borrowing pursuant to Section 2.14 or Section 2.20 shall bear interest at the BA Rate for a one month period plus the Applicable Rate then applicable to BA Rate Borrowings.

(c) The Loans comprising each LIBO Rate Borrowing shall bear interest at the LIBO Rate for the Interest Period in effect for such Borrowing *plus* the Applicable Rate.

(d) The Loans comprising each BA Rate Borrowing shall bear interest at the BA Rate for the Interest Period in effect for such Borrowing *plus* the Applicable Rate.

(e) Notwithstanding the foregoing, if any principal of or interest on any Loan or any fee payable by the applicable Borrower hereunder is not paid when due, whether at stated maturity, upon acceleration or otherwise, such overdue amount shall bear interest, to the fullest extent permitted by law, after as well as before judgment, at a rate per annum equal to (i) in the case of overdue principal or interest of any Loan, **2.0%** *plus* the rate otherwise applicable to such Loan as provided in the preceding paragraphs of this Section or (ii) in the case of any other amount denominated in Dollars, **2.0%** *plus* the rate applicable to Loans that are ABR Loans as provided in paragraph (a) of this Section and, in the case of any other amount denominated in Canadian Dollars, the rate applicable to Loans as provided in paragraph (b) of this Section.

(f) Accrued interest on each Loan shall be payable in arrears on each Interest Payment Date for such Loan and upon the Maturity Date or, if applicable, the Latest Maturity Date; provided that (i) interest accrued pursuant to paragraph (e) of this Section shall be payable on demand, (ii) in the event of any repayment or prepayment of any Loan (other than a prepayment of an ABR Loan prior to the end of the Availability Period), accrued interest on the principal amount repaid or prepaid shall be payable on the date of such repayment or prepayment and (iii) in the event of any conversion of any LIBO Rate Loan prior to the end of the current Interest Period therefor, accrued interest on such Loan shall be payable on the effective date of such conversion.

(g) All interest hereunder shall be computed on the basis of a year of **360** days, except that interest computed by reference to (i) the Alternate Base Rate at times when the Alternate Base Rate is based on the Prime Rate, or (ii) the BA Rate, shall be computed on the basis of a year of **365** days (or **366** days in a leap year), and in each case shall be payable for the actual number of days elapsed (including the first day but excluding the last day). The applicable Alternate Base Rate, LIBO Rate and BA Rate shall be determined by the Administrative Agent, and such determination shall be conclusive absent manifest error. For the purposes of the *Interest Act* (Canada), the yearly rate of interest to which any rate calculated on the basis of a period of time different from the actual number of days in the year (360 days, for example) is equivalent is the stated rate multiplied by the actual number of days in the year (365 or 366 days, as applicable) and divided by the number of days in the shorter period (360 days, in the example).

Section 2.14 Alternate Rate of Interest. If prior to the commencement of any Interest Period for a LIBO Rate Borrowing or any BA Period for a BA Rate Borrowing:

(a) the Administrative Agent determines (which determination shall be conclusive absent manifest error) that adequate and reasonable means do not exist for ascertaining the LIBO Rate or BA Rate, as applicable, for such Interest Period or BA Period; or

(b) the Administrative Agent is advised by the Required Lenders that the LIBO Rate or BA Rate, as applicable, for such Interest Period or BA Period, as applicable, will not adequately and

fairly reflect the cost to such Lenders of making or maintaining their Loans included in such Borrowing for such Interest Period or BA Period, as applicable;

then the Administrative Agent shall promptly give notice thereof to the Borrower Representative and the Lenders by telephone or facsimile as promptly as practicable thereafter and, until the Administrative Agent notifies the Borrower Representative and the Lenders that the circumstances giving rise to such notice no longer exist, which the Administrative Agent agrees promptly to do, (i) any Interest Election Request that requests the conversion of any Borrowing to, or continuation of any Borrowing as, a LIBO Rate Borrowing or continuation of any Borrowing as a BA Rate Borrowing shall be ineffective and such Borrowing shall be converted to an ABR Borrowing (if a LIBO Rate Borrowing) or shall be repaid (if a BA Rate Borrowing) on the last day of the Interest Period applicable thereof, (ii) if any Borrowing Request requests a LIBO Rate Borrowing, such Borrowing shall be made as an ABR Borrowing and (iii) if any Borrowing Request requests a BA Rate Borrowing, no Borrowing shall be made.

Section 2.15 Increased Costs.

(a) If any Change in Law shall:

(i) impose, modify or deem applicable any reserve, special deposit or similar requirement against assets of, deposits with or for the account of, or credit extended by, any Lender (except any such reserve requirement reflected in the LIBO Rate or BA Rate) or Issuing Bank;

(ii) impose on any Lender or Issuing Bank or the London interbank market any other condition affecting this Agreement, LIBO Rate Loans and BA Rate Loans made by such Lender or any Letter of Credit or participation therein; or

(iii) subject any Lender or the Administrative Agent to any Taxes (other than (A) Indemnified Taxes, (B) Taxes described in clauses (b)-(d) of the definition of Excluded Taxes, (C) Connection Income Taxes and (D) Other Taxes) on its loans, loan principal, letters of credit, commitments, or other obligations, or its deposits, reserves, other liabilities or capital attributable thereto;

and the result of any of the foregoing shall be to increase the cost to such Lender or Administrative Agent of making or maintaining any LIBO Rate Loan or BA Rate Loan (or of maintaining its obligation to make any such Loan) or to increase the cost to such Lender or Issuing Bank of participating in, issuing or maintaining any Letter of Credit or to reduce the amount of any sum received or receivable by such Lender or Issuing Bank hereunder (whether of principal, interest or otherwise) in an amount deemed by such Lender or Issuing Bank, as applicable, to be material, then, within **thirty (30)** days after the Borrower Representative's receipt of the certificate contemplated by paragraph (c) of this Section, the applicable Borrower will pay to such Lender or Issuing Bank, as applicable, such additional amount or amounts as will compensate such Lender or Issuing Bank, as applicable, for such additional costs incurred or reduction suffered; provided that the applicable Borrower shall not be liable for such compensation if (x) the relevant Change in Law occurs on a date prior to the date such Lender becomes a party hereto, (y) the Lender invokes Section 2.20 or (z) such circumstances in clause (ii) above resulting from a market disruption are not generally affecting the banking market.

(b) If any Lender or Issuing Bank determines that any Change in Law regarding liquidity or capital requirements has or would have the effect of reducing the rate of return on such Lender's or Issuing Bank's capital or on the capital of such Lender's or Issuing Bank's holding company,

if any, as a consequence of this Agreement or the Loans made by, or participations in Letters of Credit held by, such Lender, or the Letters of Credit issued by such Issuing Bank, to a level below that which such Lender or such Issuing Bank or such Lender's or such Issuing Bank's holding company could have achieved but for such a Change in Law (taking into consideration such Lender's or such Issuing Bank's policies and the policies of such Lender's or such Issuing Bank's holding company with respect to capital adequacy), then within **thirty (30)** days of receipt by the Borrower Representative of the certificate contemplated by paragraph (c) of this Section the applicable Borrower will pay to such Lender or such Issuing Bank, as applicable, such additional amount or amounts as will compensate such Lender or such Issuing Bank or such Lender's or such Issuing Bank's holding company for any such reduction suffered.

(c) A certificate of a Lender, an Issuing Bank or the Administrative Agent setting forth the amount or amounts necessary to compensate such Lender, Issuing Bank or the Administrative Agent or such Lender's holding company, as applicable, as specified in paragraphs (a), (b), or (c) of this Section and setting forth in reasonable detail the manner in which such amount or amounts was determined shall be delivered to the Borrower Representative and shall be conclusive absent manifest error.

(d) Failure or delay on the part of any Lender, Issuing Bank or the Administrative Agent to demand compensation pursuant to this Section shall not constitute a waiver of such Lender's, Issuing Bank's or the Administrative Agent's right to demand such compensation; provided that the applicable Borrower shall not be required to compensate a Lender, an Issuing Bank or the Administrative Agent pursuant to this Section for any increased costs or reductions incurred more than **180** days prior to the date that such Lender, Issuing Bank or the Administrative Agent notifies the applicable Borrower of the Change in Law giving rise to such increased costs or reductions and of such Lender's, Issuing Bank's or the Administrative Agent's intention to claim compensation therefor; provided, further, that if the Change in Law giving rise to such increased costs or reductions is retroactive, then the **180**-day period referred to above shall be extended to include the period of retroactive effect thereof.

Section 2.16 Break Funding Payments. In the event of (a) the conversion or prepayment of any principal of any LIBO Rate Loan or BA Rate Loan other than on the last day of an Interest Period or BA Period applicable thereto (whether voluntary, mandatory, automatic, by reason of acceleration or otherwise), (b) the failure to borrow, convert, continue or prepay any LIBO Rate Loan or BA Rate Loan on the date or in the amount specified in any notice delivered pursuant hereto or (c) the assignment of any LIBO Rate Loan or BA Rate Loan of any Lender other than on the last day of the Interest Period applicable thereto as a result of a request by the Borrower Representative pursuant to Section 2.19, then, in any such event, the applicable Borrower shall compensate each Lender for the loss, cost and expense attributable to such event (other than loss of profit). A certificate of any Lender setting forth any amount or amounts that such Lender is entitled to receive pursuant to this Section and the basis therefor and setting forth in reasonable detail the manner in which such amount or amounts was determined shall be delivered to the Borrower Representative and shall be conclusive absent manifest error. The applicable Borrower shall pay such Lender the amount shown as due on any such certificate within **thirty (30)** days after receipt thereof.

Section 2.17 Taxes.

(a) Any and all payments by or on account of any obligation of any Loan Party under any Loan Document shall be made free and clear of and without deduction or withholding for any Taxes, except as required by applicable law; provided that if any applicable law (as determined in the good faith discretion of an applicable Withholding Agent) requires the deduction or withholding of any Tax from any such payment by a Withholding Agent, then (i) if such Tax is an Indemnified Tax, the sum payable shall be increased as necessary so that after making all required deductions or withholding

(including deductions and withholding applicable to additional sums payable under this Section) the Administrative Agent, any Lender or any Issuing Bank (as applicable) receives an amount equal to the sum it would have received had no such deductions or withholding been made, (ii) such Withholding Agent shall be entitled to make such deductions or withholding and (iii) such Withholding Agent shall timely pay the full amount deducted or withheld to the relevant Governmental Authority in accordance with applicable law.

(b) In addition, the Loan Parties shall timely pay any Other Taxes to the relevant Governmental Authority in accordance with applicable law, or at the option of the Administrative Agent timely reimburse it for the payment of any Other Taxes.

(c) Any Loan Party shall, jointly and severally with respect to all of the Obligations, indemnify the Administrative Agent, each Lender and each Issuing Bank within **ten (10)** days after written demand therefor, for the full amount of any Indemnified Taxes or Other Taxes paid by the Administrative Agent or such Lender or Issuing Bank, as applicable, on or with respect to any payment by or any payment on account of any obligation of such Loan Party under any Loan Document (including Indemnified Taxes or Other Taxes imposed or asserted on or attributable to amounts payable under this Section), and reasonable out-of-pocket expenses arising therefrom or with respect thereto, whether or not such Indemnified Taxes or Other Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to the Loan Party by a Lender or an Issuing Bank (with a copy to the Administrative Agent), or by the Administrative Agent on its own behalf or on behalf of a Lender or an Issuing Bank, shall be conclusive absent manifest error.

(d) Each Lender shall severally indemnify the Administrative Agent, within **ten (10)** days after demand therefor, for (i) any Indemnified Taxes attributable to such Lender (but only to the extent that any Loan Party has not already indemnified the Administrative Agent for such Indemnified Taxes and without limiting the obligation of the Loan Parties to do so), (ii) any Taxes attributable to such Lender's failure to comply with the provisions of Section 9.05(c) relating to the maintenance of a Participant Register and (iii) any Excluded Taxes attributable to such Lender, in each case, that are payable or paid by the Administrative Agent in connection with any Loan Document, and any reasonable expenses arising therefrom or with respect thereto, whether or not such Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to any Lender by the Administrative Agent shall be conclusive absent manifest error. Each Lender hereby authorizes the Administrative Agent to set off and apply any and all amounts at any time owing to such Lender under any Loan Document or otherwise payable by the Administrative Agent to the Lender from any other source against any amount due to the Administrative Agent under this paragraph (d).

(e) As soon as practicable after any payment of Indemnified Taxes or Other Taxes by a Loan Party to a Governmental Authority, such Loan Party shall deliver to the Administrative Agent the original or a certified copy of a receipt issued by such Governmental Authority evidencing such payment, a copy of the return reporting such payment or other evidence of such payment reasonably satisfactory to the Administrative Agent.

(f) Status of Lenders.

(i) Any Lender that is entitled to an exemption from or reduction of withholding Tax with respect to payments made under any Loan Document shall deliver to the Borrower Representative and the Administrative Agent, at the time or times reasonably requested by the Borrower Representative or the Administrative Agent and at the time or times prescribed

by applicable law, such properly completed and executed documentation prescribed by applicable laws or by the taxing authorities of any jurisdiction and such other documentation reasonably requested by the Borrower Representative or the Administrative Agent or prescribed by applicable law as will permit such payments to be made without withholding or at a reduced rate of withholding. In addition, any Lender, if reasonably requested by the Borrowers or the Administrative Agent, shall deliver such other documentation prescribed by applicable law or by the taxing authority of any jurisdiction or reasonably requested by the Borrower Representative or the Administrative Agent as will enable the Borrower Representative or the Administrative Agent to determine whether or not such Lender is subject to backup withholding or information reporting requirements. Notwithstanding anything to the contrary in the preceding two sentences, the completion, execution and submission of such documentation (other than such documentation set forth in Sections 2.17(f)(ii)(A), (ii)(B), (ii)(C) and (ii)(D) below) shall not be required if in the Lender's reasonable judgment such completion, execution or submission would subject such Lender to any material unreimbursed cost or expense or would materially prejudice the legal or commercial position of such Lender.

(ii) Without limiting the generality of the foregoing,

(A) any Lender that is not a Foreign Lender shall deliver to the Borrower Representative and the Administrative Agent on or prior to the date on which such Lender becomes a Lender under this Agreement (and from time to time thereafter upon the reasonable request of the Borrower Representative or the Administrative Agent), two executed originals of IRS Form W-9 (or any successor form) certifying that such Lender is exempt from U.S. federal backup withholding tax;

(B) any Foreign Lender shall deliver to the Borrower Representative and the Administrative Agent (in such number of copies as shall be requested by the recipient) on or prior to the date on which such Foreign Lender becomes a Lender under this Agreement (and from time to time thereafter upon the reasonable request of the Borrower Representative or the Administrative Agent), whichever of the following is applicable:

(1) in the case of a Foreign Lender claiming the benefits of an income tax treaty to which the United States is a party (x) with respect to payments of interest under any Loan Document, executed originals of IRS Form W-8BEN-E (or any successor form) establishing an exemption from, or reduction of, U.S. federal withholding Tax pursuant to the "interest" article of such tax treaty and (y) with respect to any other applicable payments under any Loan Document, IRS Form W-8BEN-E (or any successor form) establishing an exemption from, or reduction of, U.S. federal withholding Tax pursuant to the "business profits" or "other income" article of such tax treaty;

(2) executed originals of IRS Form W-8ECI (or any successor form);

(3) in the case of a Foreign Lender claiming the benefits of the exemption for portfolio interest under Section 871(h) or Section 881(c) of the Code, (x) a certificate substantially in the form of Exhibit K-1 to the effect that such Foreign Lender is not a "bank" under Section 881(c)(3)(A) of the Code, is not a "10 percent shareholder" of any U.S. Borrower within the meaning of Section 871(h)(3)(B) of the Code, and is not a "controlled foreign corporation" described in Section 881(c)(3)(C) of

the Code (a "**U.S. Tax Compliance Certificate**") and (y) executed originals of IRS Form W-8BEN-E (or any successor form); or

(4) to the extent a Foreign Lender is not the beneficial owner, executed originals of IRS Form W-8IMY, accompanied by IRS Form W-8ECI, IRS Form W-8BEN-E, a U.S. Tax Compliance Certificate substantially in the form of Exhibit K-2 or Exhibit K-3, IRS Form W-9, and/or other certification documents (or any successor forms) from each beneficial owner, as applicable; provided that if the Foreign Lender is a partnership and one or more partners of such Foreign Lender are claiming the portfolio interest exemption, such Foreign Lender may provide a U.S. Tax Compliance Certificate substantially in the form of Exhibit K-4 on behalf of each such partner;

(C) any Foreign Lender shall deliver to the Borrower Representative and the Administrative Agent (in such number of copies as shall be requested by the recipient) on or prior to the date on which such Foreign Lender becomes a Lender under this Agreement (and from time to time thereafter upon the reasonable request of the Borrower Representative or the Administrative Agent) executed originals of any other form prescribed by applicable law as a basis for claiming exemption from or a reduction in U.S. federal withholding Tax or Canadian withholding tax, duly completed, together with such supplementary documentation as may be prescribed by applicable law to permit the Borrower Representative or the Administrative Agent to determine the withholding or deduction required to be made; and

(D) if a payment made to a Lender under any Loan Document would be subject to U.S. federal withholding Tax imposed by FATCA if such Lender were to fail to comply with the applicable reporting requirements of FATCA (including those contained in Section 1471(b) or 1472(b) of the Code, as applicable), such Lender shall deliver to the Borrower Representative and the Administrative Agent at the time or times prescribed by law and at such time or times reasonably requested by the Borrower Representative or the Administrative Agent such documentation prescribed by applicable law (including as prescribed by Section 1471(b)(3)(C)(i) of the Code) as may be necessary for the Borrower Representative and the Administrative Agent to comply with their obligations under FATCA and to determine that such Lender has complied with such Lender's obligations under FATCA or to determine the amount to deduct and withhold from such payment. Solely for purposes of this clause (D), "FATCA" shall include any amendments made to FATCA after the date of this Agreement.

(iii) Each Lender agrees that if any form or certification it previously delivered expires or becomes obsolete or inaccurate in any respect, it shall promptly deliver to the Borrower Representative and the Administrative Agent (in such number of copies as shall be requested by the recipient) renewals, amendments or additional or successor forms, properly completed and duly executed by such Lender, together with any other certificate or statement of exemption required in order to confirm or establish such Lender's status or that such Lender is entitled to an exemption from or reduction in applicable tax. If as a result of any change in Change in Law, regulation or treaty, or in any official application or interpretation thereof applicable to the payments made by or on behalf of any Loan Party or by the Administrative Agent under any Loan Document or any change in an income tax treaty applicable to any Lender, any Lender is unable to submit to the Borrower Representative or the Administrative Agent any form or certificate that such Lender is obligated to submit pursuant to Section 2.17(f)(ii) or such Lender is required to withdraw or cancel any such form or certificate previously submitted or any such form or certificate otherwise becomes ineffective or inaccurate, such Lender shall promptly notify the Borrower Representative and Administrative Agent of such fact and the Lender shall to

that extent not be obligated to provide any such form or certificate and will be entitled to withdraw or cancel any affected form or certificate, as applicable.

(g) If the Administrative Agent or a Lender determines, in its sole discretion, that it has received a refund of any Indemnified Taxes or Other Taxes as to which it has been indemnified by a Loan Party or with respect to which such Loan Party has paid additional amounts pursuant to this Section 2.17, it shall pay over such refund to such Loan Party (but only to the extent of indemnity payments made, or additional amounts paid, by such Loan Party under this Section 2.17 with respect to the Taxes or Other Taxes giving rise to such refund), net of all out-of-pocket expenses of the Administrative Agent or such Lender (including any Taxes imposed with respect to such refund), and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund); provided that such Loan Party, upon the request of the Administrative Agent or such Lender, agrees to repay the amount paid over to such Loan Party (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) to the Administrative Agent or such Lender in the event the Administrative Agent or such Lender is required to repay such refund to such Governmental Authority. Notwithstanding anything to the contrary in this paragraph (g), in no event will the Administrative Agent or a Lender be required to pay any amount to a Loan Party pursuant to this paragraph (g) to the extent that the payment of which would place the Administrative Agent or Lender in a less favorable net after-Tax position than the Administrative Agent or Lender would have been in if the Tax subject to indemnification had not been deducted, withheld or otherwise imposed and the indemnification payments or additional amounts with respect to such Tax had never been paid. This Section shall not be construed to require the Administrative Agent or any Lender to make available its tax returns (or any other information relating to its taxes which it deems confidential) to such Loan Party or any other Person.

(h) Survival. Each party's obligations under this Section 2.17 shall survive the resignation or replacement of the Administrative Agent or any assignment of rights by, or the replacement of, a Lender, the termination of the Commitments and the repayment, satisfaction or discharge of all obligations under any Loan Document.

Section 2.18 Payments Generally; Allocation of Proceeds; Sharing of Set-offs.

(a) Unless otherwise specified, the applicable Borrower shall make each payment required to be made by it hereunder (whether of principal, interest, subject to the *Interest Act* (Canada) if applicable, fees or reimbursement of LC Disbursements, or of amounts payable under Section 2.15, 2.16 or 2.17, or otherwise) prior to **1:30 p.m.**, New York City time, on the date when due, in immediately available funds, without set-off (except as otherwise provided in Section 2.17) or counterclaim. Any amounts received after such time on any date may, in the discretion of the Administrative Agent, be deemed to have been received on the next succeeding Business Day for purposes of calculating interest thereon. All such payments shall be made to the Administrative Agent to the applicable account designated to the applicable Borrower by the Administrative Agent, except that payments to be made directly to the applicable Issuing Bank or the Swingline Lender as expressly provided herein and except that payments pursuant to Section 2.15, 2.16 or 2.17 and 9.03 shall be made directly to the Persons entitled thereto. The Administrative Agent shall distribute any such payments received by it for the account of any other Person to the appropriate recipient promptly following receipt thereof. Except as provided in Section 2.05 with respect to Swingline Loans, in Section 2.04 with respect to Protective Advances and in Section 2.20, each Borrowing, each payment or prepayment of principal of any Borrowing, each payment of interest on the Loans of a given Class, each payment of the commitment fees, each reduction of the Commitments and each conversion of any Borrowing to or continuation of any Borrowing as a Borrowing of any Type (and of the same Class) shall be allocated *pro rata* among the Lenders in accordance with their respective Applicable Percentages. Each Lender agrees that in

computing such Lender's portion of any Borrowing to be made hereunder, the Administrative Agent may, in its discretion, round each Lender's percentage of such Borrowing to the next higher or lower whole dollar amount. All payments hereunder shall be made in the currency in which such Obligation is due. Any payment required to be made by the Administrative Agent hereunder shall be deemed to have been made by the time required if the Administrative Agent shall, at or before such time, have taken the necessary steps to make such payment in accordance with the regulations or operating procedures of the clearing or settlement system used by the Administrative Agent to make such payment. At all times during which a Cash Dominion Period exists, solely for purposes of determining the amount of Loans available for borrowing purposes, checks and Cash or other immediately available funds from collections of items of payment and proceeds of any Collateral shall (i) to the extent received from or on behalf of U.S. Loan parties, in whole or in part against the U.S. Obligations and then to Canadian Obligations, on the day of receipt, subject to actual collection and (ii) to the extent received from or on behalf of Canadian Loan Parties, in whole or in part against the Canadian Obligations and then to the U.S. Obligations, on the day of receipt, subject to actual collection.

(b) Subject in all respects to the provisions of the Intercreditor Agreement, (1) all proceeds of Collateral received by the Administrative Agent after (i) an Event of Default has occurred and is continuing and (ii) (A) all or any portion of the Loans shall have been accelerated hereunder pursuant to Section 7.01 or (B) the occurrence of the Maturity Date or, if applicable, the Latest Maturity Date, shall, upon election by the Administrative Agent or at the direction of the Required Lenders, be applied in each case, in the following order, *first*, on a *pro rata* basis, to pay any fees, indemnities, or expense reimbursements then due to the Administrative Agent or any Issuing Bank from the Borrowers constituting Obligations, *second*, on a *pro rata* basis, to pay any fees or expense reimbursements then due to the Lenders from the Borrowers constituting Obligations, *third*, to pay interest due and payable in respect of any Revolving Loans, Swingline Loans and any Protective Advances, on a *pro rata* basis, *fourth*, to pay the principal of the Protective Advances, *fifth*, to prepay principal on the Loans (other than the Protective Advances) and unreimbursed LC Disbursements, on a *pro rata* basis, *sixth*, to pay an amount to the Administrative Agent equal to **102.0%** of the LC Exposure denominated in Dollars and **105.0%** of the LC Exposure denominated in Canadian Dollars, in each case, on such date, to be held in the LC Collateral Account as Cash collateral for such Obligations, on a *pro rata* basis, *seventh*, to pay any amounts owing with respect to Banking Services to the extent they constitute Secured Obligations and Secured Hedging Obligations, on a *pro rata* basis, *eighth*, to the payment of any other Secured Obligation (other than contingent indemnification obligations for which no claim has yet been made) due to the Administrative Agent or any Lender on a *pro rata* basis, *ninth*, as provided for under the Intercreditor Agreement, and *tenth*, to the Borrower Representative as the Borrower Representative shall direct.

(c) If any Lender shall, by exercising any right of set-off or counterclaim or otherwise, obtain payment in respect of any principal of or interest on any of its Revolving Loans or participations in LC Disbursements, Swingline Loans or Protective Advances resulting in such Lender receiving payment of a greater proportion of the aggregate amount of its Revolving Loans and participations in LC Disbursements, Swingline Loans or Protective Advances and accrued interest thereon than the proportion received by any other Lender, then the Lender receiving such greater proportion shall purchase (for Cash at face value) participations in the Revolving Loans and sub-participations in LC Disbursements, Swingline Loans and Protective Advances of other Lenders at such time outstanding to the extent necessary so that the benefit of all such payments shall be shared by the Lenders ratably in accordance with the aggregate amount of principal of and accrued interest on their respective Revolving Loans and participations in LC Disbursements, Swingline Loans and Protective Advances; provided that (i) if any such participations are purchased and all or any portion of the payment giving rise thereto is recovered, such participations shall be rescinded and the purchase price restored to the extent of such recovery, without interest, and (ii) the provisions of this paragraph shall not be construed to apply to (x) any payment made by the applicable Borrower pursuant to and in accordance with the express terms

of this Agreement, or (y) any payment obtained by a Lender as consideration for the assignment of or sale of a participation in any of its Revolving Loans or participations in LC Disbursements, Swingline Loans or Protective Advances to any permitted assignee or participant, including any payments made or deemed made in connection with Sections 2.23, 2.25 and 9.02(c). The applicable Borrower consents to the foregoing and agrees, to the extent they may effectively do so under applicable law, that any Lender acquiring a participation pursuant to the foregoing arrangements may exercise against the applicable Borrower rights of set-off and counterclaim with respect to such participation as fully as if such Lender were a direct creditor of the applicable Borrower in the amount of such participation.

(d) Unless the Administrative Agent shall have received notice from the applicable Borrower prior to the date on which any payment is due to the Administrative Agent for the account of the Lenders or the applicable Issuing Bank hereunder that the applicable Borrower will not make such payment, the Administrative Agent may assume that the applicable Borrower has made such payment on such date in accordance herewith and may, in reliance upon such assumption, distribute to the Lenders or the applicable Issuing Bank, as applicable, the amount due. In such event, if the applicable Borrower has not in fact made such payment, then each of the Lenders or the applicable Issuing Bank, as applicable, severally agrees to repay to the Administrative Agent forthwith on demand the amount so distributed to such Lender or Issuing Bank with interest thereon, for each day from and including the date such amount is distributed to it to but excluding the date of payment to the Administrative Agent, at the greater of the Federal Funds Effective Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation.

(e) If any Lender shall fail to make any payment required to be made by it pursuant to Section 2.07(b), Section 2.18(c) or the last paragraph of Article 8, then the Administrative Agent may, in its discretion (notwithstanding any contrary provision hereof), apply any amounts thereafter received by the Administrative Agent for the account of such Lender to satisfy such Lender's obligations under such Sections until all such unsatisfied obligations are fully paid.

Section 2.19 Mitigation Obligations; Replacement of Lenders.

(a) If any Lender requests compensation under Section 2.15 or such Lender determines it can no longer make or maintain LIBO Rate Loans or BA Rate Loans pursuant to Section 2.20, or if the applicable Borrower is required to pay any additional amount to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 2.17, then such Lender shall use reasonable efforts to designate a different lending office for funding or booking its Loans hereunder or to assign its rights and obligations hereunder to another of its offices, branches or affiliates, if, in the reasonable judgment of such Lender, such designation or assignment (i) would eliminate or reduce amounts payable pursuant to Section 2.15 or 2.17, as applicable, in the future and (ii) would not subject such Lender to any material unreimbursed out-of-pocket cost or expense and would not otherwise be disadvantageous to such Lender in any material respect. The applicable Borrower hereby agrees to pay all reasonable costs and expenses incurred by any Lender in connection with any such designation or assignment.

(b) If (i) any Lender requests compensation under Section 2.15 or such Lender determines it can no longer make or maintain LIBO Rate Loans or BA Rate Loans pursuant to Section 2.20, (ii) if the applicable Borrower is required to pay any additional amount to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 2.17, (iii) if any Lender is a Defaulting Lender, or (iv) if in connection with any proposed amendment, waiver or consent requiring the consent of "each Lender" or "each Lender directly affected thereby" with respect to which Required Lender consent has been obtained, any Lender is a non-consenting Lender (each such Lender, a "**Non-Consenting Lender**"), then the applicable Borrower may, at its sole expense and effort, upon notice to

such Lender and the Administrative Agent, (x) so long as no Event of Default under Section 7.01(f)(i) has occurred and is continuing, terminate the Commitments of such Lender and repay all Obligations of the applicable Borrower owing to such Lender relating to the Loans and participations held by such Lender as of such termination date or (y) replace such Lender by requiring such Lender to assign and delegate (and such Lender shall be obligated to assign and delegate), without recourse (in accordance with and subject to the restrictions contained in Section 9.05), all its interests, rights and obligations under this Agreement to an Eligible Assignee that shall assume such obligations (which Eligible Assignee may be another Lender, if a Lender accepts such assignment); provided that (i) such Lender shall have received payment of an amount equal to the outstanding principal of its Revolving Loans and participations in LC Disbursements, Swingline Loans and Protective Advances, accrued interest thereon, accrued fees and all other amounts payable to it hereunder, (ii) in the case of any assignment resulting from a claim for compensation under Section 2.15 or payments required to be made pursuant to Section 2.17, such assignment will result in a reduction in such compensation or payments and (iii) such assignment does not conflict with applicable law. A Lender (other than a Defaulting Lender) shall not be required to make any such assignment and delegation, and the applicable Borrower may not terminate the Commitments of such Lender, if, prior thereto, as a result of a waiver by such Lender or otherwise, the circumstances entitling the applicable Borrower to require such assignment and delegation cease to apply. Nothing in this Section 2.19 shall be deemed to prejudice any rights that the applicable Borrower may have against a Lender that is a Defaulting Lender. Each Lender agrees that if it is replaced pursuant to this Section 2.19, it (x) shall execute and deliver to the Administrative Agent an Assignment and Assumption to evidence such sale and purchase and shall deliver to the Administrative Agent any Promissory Note (if the assigning Lender's Loans are evidenced by Promissory Notes) subject to such Assignment and Assumption; provided that the failure of any Lender replaced pursuant to this Section 2.19 to execute an Assignment and Assumption or deliver such Promissory Notes shall not render such sale and purchase (and the corresponding assignment) invalid and such assignment shall be recorded in the Register and the Promissory Notes shall be deemed cancelled upon such failure and (y) shall be deemed to have consented to such proposed amendment, waiver or consent. Each Lender hereby irrevocably appoints the Administrative Agent (such appointment being coupled with an interest) as such Lender's attorney-in-fact and agent, with full authority in the place and stead of such Lender and in the name of such Lender, from time to time in the Administrative Agent's discretion, with prior written notice to such Lender, to take any action and to execute any such Assignment and Assumption or other instrument that the Administrative Agent may deem reasonably necessary to carry out the provisions of this clause (b).

Section 2.20 Illegality. If any Lender reasonably determines that any Change in Law has made it unlawful, or that any Governmental Authority has asserted after the Closing Date that it is unlawful, for such Lender or its applicable lending office to make or maintain any LIBO Rate Loans or BA Rate Loans, then, on notice thereof by such Lender to the Borrower Representative through the Administrative Agent, any obligations of such Lender to make or continue LIBO Rate Loans or BA Rate Loans or to convert ABR Borrowings to LIBO Rate Borrowings shall be suspended until such Lender notifies the Administrative Agent and the Borrower Representative that the circumstances giving rise to such determination no longer exist. Upon receipt of such notice, the Borrowers shall upon demand from such Lender (with a copy to the Administrative Agent), either convert all LIBO Rate Borrowings of such Lender to ABR Borrowings, either on the last day of the Interest Period therefor, if such Lender may lawfully continue to maintain such LIBO Rate Borrowings to such day, or immediately, if such Lender may not lawfully continue to maintain such Loans. Upon receipt of such notice, the Borrowers shall upon demand from such Lender (with a copy to the Administrative Agent) either repay all BA Rate Borrowing of such Lender, either on the last day of the Interest Period therefor, if such Lender may lawfully continue to maintain such BA Rate Borrowing to such day, or immediately, if such Lender may not lawfully continue to maintain such Loans. Upon any such prepayment or conversion, the Borrower Representative shall also pay accrued interest on the amount so prepaid or converted. Each Lender agrees to designate a

different lending office if such designation will avoid the need for such notice and will not, in the determination of such Lender, otherwise be materially disadvantageous to it.

Section 2.21 Cash Receipts.

(a) Annexed hereto as Schedule 2.21(a) is a schedule of all DDAs and Excluded Accounts that, to the knowledge of the Responsible Officers of the Loan Parties, are maintained by the Loan Parties as of the Closing Date, which Schedule includes, with respect to each DDA and Excluded Account, in each case as of the Closing Date, (i) the name and address of the financial institution at which such DDA or Excluded Account is maintained and (ii) the account number(s) assigned to such DDAs or Excluded Accounts by such financial institution.

(b) **[Reserved]**.

(c) Each Loan Party (other than UK Holdings) shall (within **ninety (90)**) days after the Closing Date (or such longer period as the Administrative Agent may agree in its reasonable discretion)) enter into a blocked account agreement (each, a "**Blocked Account Agreement**"), in form reasonably satisfactory to the Administrative Agent, with the Administrative Agent and any financial institution with which such Loan Party maintains a DDA (collectively, the "**Blocked Accounts**"), which Blocked Accounts as of the Closing Date are listed on Schedule 2.21(c) annexed hereto, which Schedule includes, with respect to each Blocked Account, in each case as of the Closing Date, (i) the name and address of the financial institution at which such Blocked Account is maintained and (ii) the account number(s) assigned to such Blocked Account by such financial institution. In the event that any Loan Party (other than UK Holdings) acquires any DDA after the Closing Date in connection with an Investment permitted hereunder or otherwise that will, following the integration of such DDA into the cash management procedures of the Loan Parties, constitute a Blocked Account, such Loan Party shall enter into a Blocked Account Agreement with respect thereto (A) so long as no Cash Dominion Period exists, within **ninety (90)** days, and (B) at any time a Cash Dominion Period exists, within **thirty (30)** days, in each case following the date such DDA is acquired (or, in each case, such longer period as the Administrative Agent may agree to in its reasonable discretion).

(d) Each Blocked Account Agreement relating to any concentration account into which the DDAs are swept (each, a "**Concentration Account**") shall require, after the delivery of notice of a Cash Dominion Period from the Administrative Agent to the Borrower Representative and the other parties to such instrument or agreement (which the Administrative Agent may, or upon the request of the Required Lenders shall, provide upon its becoming aware of such a Cash Dominion Period), the ACH or wire transfer no less frequently than once per Business Day (unless the Termination Date shall have occurred), of all available Cash balances and Cash receipts, including the then contents or then entire ledger balance of each Blocked Account relating to any Concentration Account (net of such minimum balance, not to exceed **$100,000** per account or **$1,000,000** in the aggregate for all such accounts, as may be required to be maintained in the subject Blocked Account by the bank at which such Blocked Account is maintained (the "**Required Minimum Balances**")), to accounts maintained by the Administrative Agent (collectively or individually, the "**Administrative Agent Accounts**"). All amounts received in the Administrative Agent Accounts shall be applied (and allocated) by the Administrative Agent in accordance with Section 2.11(c); provided that if the circumstances described in Section 2.18(b) are applicable, all such amounts shall be applied in accordance with such Section 2.18(b). Each Loan Party agrees that it will not cause any proceeds of any Blocked Account relating to any Concentration Account to be otherwise redirected. At all times, subject to the provisions of Section 2.21(c), the Loan Parties shall maintain all of their Cash and Cash Equivalents in Blocked Accounts, DDAs (solely to the extent such DDA is not required to be a Blocked Account pursuant to clause (c) above), Excluded Accounts or securities accounts subject to the control of the Administrative Agent, and at any time a Cash Dominion

Period exists and is continuing, amounts shall be swept from the Blocked Accounts relating to any Concentration Account to the Administrative Agent Account as provided herein, except for Required Minimum Balances.

(e) The Loan Parties shall promptly notify the Administrative Agent of any DDA or Blocked Account established or maintained after the Closing Date by a Loan Party. The Loan Parties may close DDAs or Blocked Accounts and/or open new DDAs or Blocked Accounts, subject (i) in the case of opening any new DDAs, to the satisfaction of the requirements set forth in Section 2.21(c)(i) with respect to such new DDAs and (ii) in the case of opening any new Blocked Accounts, to the contemporaneous (or such longer period as the Administrative Agent may agree in its reasonable discretion) execution and delivery to the Administrative Agent of a Blocked Account Agreement consistent with the provisions of this Section 2.21 and otherwise reasonably satisfactory to the Administrative Agent.

(f) The Administrative Agent Accounts shall at all times be under the sole dominion and control of the Administrative Agent. Each Loan Party hereby acknowledges and agrees that (i) such Loan Party has no right of withdrawal from any Administrative Agent Account (except as provided in Section 2.11(c) or 2.18(b)), (ii) the funds on deposit in the Administrative Agent Accounts shall at all times continue to be collateral security for the Secured Obligations, and (iii) the funds on deposit in the Administrative Agent Account shall be applied as provided in this Agreement and the Intercreditor Agreement. In the event that, notwithstanding the provisions of this Section 2.21, any Loan Party receives or otherwise has dominion and control of any proceeds or collections required to be transferred to any Administrative Agent Account pursuant to Section 2.21(d), such proceeds and collections shall be held in trust by such Loan Party for the Administrative Agent, and shall promptly be deposited into the applicable Administrative Agent Account or dealt with in such other fashion as such Loan Party may be instructed by the Administrative Agent.

(g) Upon the commencement of a Cash Dominion Period and for so long as the same is continuing, the Administrative Agent may direct that all amounts in the Blocked Accounts which are Concentration Accounts be paid to the Administrative Agent Account. So long as no Cash Dominion Period has commenced and is continuing in respect of which the Administrative Agent has delivered notice as contemplated by paragraph (d) of this Section 2.21, the Loan Parties may direct, and shall have sole control over, the manner of disposition of funds in the Blocked Accounts which are Concentration Accounts.

(h) Any amounts held or received in any Administrative Agent Account (including all interest and other earnings with respect thereto, if any) at any time (i) when the Termination Date has occurred or (ii) no Cash Dominion Period exists, shall (subject, in the case of clause (i), to the provisions of the Intercreditor Agreement) be remitted to an account of the Borrower Representative or as the Borrower Representative may direct.

(i) Following the commencement of a Cash Dominion Period (other than by reason of an Event of Default pursuant to Section 7.01(a), 7.01(f) or 7.01(g), except to the extent necessary for one or more officers or directors of Holdings, Rockport Group or any of its Subsidiaries to avoid personal or criminal liability under applicable law as certified in the applicable Trust Fund Certificate), in the event that a Blocked Account or the Administrative Agent Account contains Trust Funds (other than payroll and employee benefit payments, in each case, in the nature of discretionary contributions), the Borrower Representative (acting in good faith) may, within **thirty (30)** days after such Trust Funds are received in such Blocked Account or any Administrative Agent Account, deliver to the Administrative Agent a Trust Fund Certificate (together with such supporting information as may be requested by the Administrative Agent). Notwithstanding anything to the contrary herein or in any other Loan Document, within **five (5)**

Business Days following receipt of a Trust Fund Certificate, the Administrative Agent shall remit from such Blocked Account or Administrative Agent Account, as applicable, the lesser of (a) such Trust Funds specified in the Trust Fund Certificate or (b) the Excess Availability on the date of such remittance, at the option of the Administrative Agent, (x) to the applicable Loan Party or (y) on behalf of the applicable Loan Party directly to the Person entitled to such Trust Funds as specified in the Trust Fund Certificate. If any such amounts are remitted to a Loan Party, such Loan Party shall apply all such funds solely for the purposes set forth in the applicable Trust Fund Certificate on or prior to the date due and any failure of such Loan Party to apply all such funds solely for such purposes shall constitute an immediate Event of Default.

Section 2.22 Defaulting Lenders. Notwithstanding any provision of this Agreement to the contrary, if any Lender becomes a Defaulting Lender, then the following provisions shall apply for so long as such Lender is a Defaulting Lender:

(a) Fees shall cease to accrue on the unfunded portion of the Commitment of such Defaulting Lender pursuant to Section 2.12(a) and, subject to clause (d)(iv) below, on the participation of such Defaulting Lender in Letters of Credit pursuant to Section 2.12(b).

(b) The Commitment and the LC Exposure of such Defaulting Lender shall not be included in determining whether all Lenders or the Required Lenders have taken or may take any action hereunder (including any consent to any amendment or waiver pursuant to Section 9.02); provided that any waiver, amendment or modification requiring the consent of all Lenders or each affected Lender which affects such Defaulting Lender disproportionately and adversely relative to other affected Lenders shall require the consent of such Defaulting Lender.

(c) Any payment of principal, interest, fees or other amounts received by the Administrative Agent for the account of a Defaulting Lender (whether voluntary or mandatory, at maturity, pursuant to Section 2.11, Section 2.18, Article 7 or otherwise, and including any amounts made available to the Administrative Agent by that Defaulting Lender pursuant to Section 9.09), shall be applied at such time or times as may be determined by the Administrative Agent and, where relevant, the Borrower Representative as follows: *first*, to the payment of any amounts owing by that Defaulting Lender to the Administrative Agent hereunder; *second*, to the payment on a *pro rata* basis of any amounts owing by that Defaulting Lender to any applicable Issuing Banks and Swingline Lenders hereunder; *third*, if so reasonably determined by the Administrative Agent or reasonably requested by the applicable Issuing Bank or Swingline Lender, to be held as Cash collateral for future funding obligations of that Defaulting Lender of any participation in any Swingline Loan or Letter of Credit; *fourth*, as the Borrower Representative may request (so long as no Default or Event of Default exists), to the funding of any Loan in respect of which that Defaulting Lender has failed to fund its portion thereof as required by this Agreement, as determined by the Administrative Agent; *fifth*, if so determined by the Administrative Agent and the Borrower Representative, to be held in a deposit account and released in order to satisfy obligations of that Defaulting Lender to fund Loans under this Agreement; *sixth*, to the payment of any amounts owing to the Lenders, the Issuing Banks or Swingline Lenders as a result of any judgment of a court of competent jurisdiction obtained by any Lender, any Issuing Bank or any Swingline Lender against that Defaulting Lender as a result of that Defaulting Lender's breach of its obligations under this Agreement; *seventh*, so long as no Default or Event of Default exists, to the payment of any amounts owing to the Borrower Representative as a result of any judgment of a court of competent jurisdiction obtained by the Borrower Representative against that Defaulting Lender as a result of that Defaulting Lender's breach of its obligations under this Agreement; and *eighth*, to that Defaulting Lender or as otherwise directed by a court of competent jurisdiction; provided that if (x) such payment is a payment of the principal amount of any Loans or LC Exposure in respect of which that Defaulting Lender has not fully funded its appropriate share and (y) such Loans or LC Exposure were made or created at a time

when the conditions set forth in Section 4.02 were satisfied or waived, such payment shall be applied solely to pay the Revolving Loans of, and LC Exposure owed to, all non-Defaulting Lenders on a *pro rata* basis prior to being applied to the payment of any Loans of, or LC Exposure owed to, that Defaulting Lender. Any payments, prepayments or other amounts paid or payable to a Defaulting Lender that are applied (or held) to pay amounts owed by a Defaulting Lender or to post Cash collateral pursuant to this Section 2.22(c) shall be deemed paid to and redirected by that Defaulting Lender, and each Lender irrevocably consents hereto.

(d) If any Swingline Loans or LC Exposure exists or Protective Advance is outstanding at the time a Lender becomes a Defaulting Lender then:

(i) all or any part of such Swingline Loans, LC Exposure and Protective Advances shall be reallocated among the non-Defaulting Lenders in accordance with their respective Applicable Percentages but only to the extent (x) the sum of all non-Defaulting Lenders' Revolving Exposures plus the amount of the Applicable Percentage of the Defaulting Lender (determined immediately prior to its being a Defaulting Lender) of Swingline Loans and Protective Advances that it has funded and are outstanding as of the date that it became a Defaulting Lender plus the Defaulting Lender's LC Exposure does not exceed the total of all non-Defaulting Lenders' Commitments and (y) such reallocation does not cause the aggregate Revolving Exposures of any non-Defaulting Lender to exceed such non-Defaulting Lender's Commitment; or

(ii) if the reallocation described in paragraph (i) above cannot, or can only partially, be effected, the Borrowers shall, without prejudice to any other right or remedy available to it hereunder or under law, within **two (2)** Business Days following notice by the Administrative Agent to the Borrower Representative, cash collateralize **100.0%** of such Defaulting Lender's LC Exposure and any obligations of such Defaulting Lender to fund participations in any Swingline Loan or Protective Advance (after giving effect to any partial reallocation pursuant to paragraph (i) above and any Cash collateral provided by the Defaulting Lender) or make other arrangements reasonably satisfactory to the Administrative Agent and to the applicable Issuing Bank and/or Swingline Lender with respect to such LC Exposure and obligations to fund participations. Cash collateral (or the appropriate portion thereof) provided to reduce LC Exposure or other obligations shall be released promptly following (A) the elimination of the applicable LC Exposure or other obligations giving rise thereto (including by the termination of Defaulting Lender status of the applicable Lender (or, as appropriate, its assignee following compliance with Section 2.19)) or (B) the Administrative Agent's good faith determination that there exists excess Cash collateral.

(iii) if the LC Exposure of the non-Defaulting Lenders are reallocated pursuant to this Section 2.22(d), then the fees payable to the Lenders pursuant to Sections 2.12(a) and (b), as the case may be, shall be adjusted in accordance with such non-Defaulting Lenders' Applicable Percentages; or

(iv) if any Defaulting Lender's LC Exposure is not cash collateralized, prepaid or reallocated pursuant to this Section 2.22(d), then, without prejudice to any rights or remedies of the applicable Issuing Bank or any Lender hereunder, all letter of credit fees payable under Section 2.12(b) with respect to such Defaulting Lender's LC Exposure shall be payable to the applicable Issuing Bank until such Defaulting Lender's LC Exposure is cash collateralized.

(e) So long as any Lender is Defaulting Lender, the Swingline Lender shall not be required to fund any Swingline Loan and no Issuing Bank shall be required to issue, extend, create, incur,

amend or increase any Letter of Credit unless it is reasonably satisfied that the related exposure will be **100.0%** covered by the Commitments of the non-Defaulting Lenders and/or Cash collateral will be provided by the Borrowers in accordance with Section 2.22(d), and participating interests in any such newly issued, extended or created Letter of Credit or newly made Swingline Loan shall be allocated among non-Defaulting Lenders in a manner consistent with Section 2.22(d)(i) (and Defaulting Lenders shall not participate therein).

(f) In the event that the Administrative Agent, the Borrower Representative, the Issuing Banks and the Swingline Lender each agree that a Defaulting Lender has adequately remedied all matters that caused such Lender to be a Defaulting Lender, then the Applicable Percentage of Swingline Loans and Protective Advances and LC Exposure of the Lenders shall be readjusted to reflect the inclusion of such Lender's Commitment and on such date such Lender shall purchase at par such of the Loans of the other Lenders (other than Swingline Loans) or participations in Loans as the Administrative Agent shall determine may be necessary in order for such Lender to hold such Loans or participations in accordance with its Applicable Percentage; provided that no adjustments will be made retroactively with respect to fees accrued or payments made by or on behalf of the Borrowers while that Lender was a Defaulting Lender; and provided, further, that except to the extent otherwise expressly agreed by the affected parties, no change hereunder from Defaulting Lender to Lender will constitute a waiver or release of any claim of any party hereunder arising from that Lender's having been a Defaulting Lender.

Section 2.23 Commitment Increase.

(a) The Borrower Representative may, at any time, on one or more occasions deliver a written request to Administrative Agent (whereupon the Administrative Agent shall promptly deliver a copy to each of the Lenders) to increase the Aggregate Commitments by an aggregate principal amount of up to **$25,000,000**, specifying the amount so requested (each such increase, a "**Commitment Increase**"); provided that:

(i) such request shall be for a Commitment Increase of not less than **$5,000,000**,

(ii) except as otherwise specifically agreed by any Lender prior to the date hereof, or separately agreed from time to time between the Borrower Representative and any Lender, no Lender shall be obligated to provide such increase in its Commitment and the determination to increase the Commitment of a Lender shall be within the sole and absolute discretion of such Lender,

(iii) no Commitment Increase shall require the approval of any existing Lender other than any existing Lender providing all or part of any Commitment Increase,

(iv) each Commitment Increase will be on terms identical to those applicable to the Credit Facility (including, the interest rate applicable to any Commitment Increase, the Maturity Date, and ranking *pari passu* in right of payment and security with the Credit Facility) and pursuant to the same documentation (other than the amendment evidencing such Commitment Increase),

(v) except as otherwise required or permitted in clauses (i)-(iv) above, all other terms of such Commitment Increase, if not consistent with the terms of the existing Credit Facility shall be reasonably satisfactory to the Administrative Agent, and

(vi) no Event of Default pursuant to Section 7.01(a), (f) or (g) shall exist immediately prior to or after giving effect to the effectiveness of any Commitment Increase.

(b) Commitment Increases may be provided by any existing Lender, or by any other lender that is an Eligible Assignee (any such other lender being called an "**Additional Lender**"); provided that the Administrative Agent, the Swingline Lender and each Issuing Bank shall have consented (such consent not to be unreasonably withheld) to such Additional Lender's providing such Commitment Increases if such consent would be required under Section 9.05(b) for an assignment of Revolving Loans or Commitments, as applicable, to such Additional Lender.

(c) Each Lender or Additional Lender providing a portion of the Commitment Increase shall execute and deliver to the Administrative Agent and the Borrower Representative all such documentation (including an amendment to this Agreement or any other Loan Document) as may be reasonably required by the Administrative Agent to evidence and effectuate such Commitment Increase. On the effective date of such Commitment Increase, (i) the Commitment Schedule shall be amended, without the consent of any other Lenders, to reflect such Commitment Increase and the Administrative Agent is authorized and directed to so revise the Commitment Schedule and distribute it to each Lender and the Borrower Representative, (ii) such revised Commitment Schedule shall replace the then existing Commitment Schedule and become part of this Agreement, and (iii) each Additional Lender added as a new Lender pursuant to such increase in the Aggregate Commitments shall become a Lender for all purposes in connection with this Agreement.

(d) As a condition precedent to such Commitment Increase, (i) upon its request, the Administrative Agent shall have received an opinion of counsel to the Borrowers in form and substance reasonably satisfactory to the Administrative Agent, as well as such reaffirmation agreements, supplements and/or amendments as it shall reasonably require (provided that, unless agreed by the Borrower Representative, any bring-down of the representations and warranties in the Credit Facility shall be limited in the case of any Permitted Acquisition to the Specified Representations), (ii) the Administrative Agent shall have received an Administrative Questionnaire and such other documents as it shall reasonably require for an Additional Lender and the Administrative Agent and Lenders shall have received all fees required to be paid in respect of such Commitment Increase, (iii) all Indebtedness under the Commitments in respect of any such Commitment Increase shall constitute "**Revolving Obligations**" pursuant to the Intercreditor Agreement and any cushion to the Revolving Debt Cap (as defined in the Intercreditor Agreement) shall have been increased by a proportionate amount and (iv) the Administrative Agent shall have received a certificate of each Borrower signed by an authorized officer of such Borrower (A) certifying and attaching a copy of the resolutions adopted by such Borrower \ approving or consenting to such Commitment Increase, and (B) certifying that, before and after giving effect to such Commitment Increase, no Event of Default pursuant to Section 7.01(a), (f) or (g) exists or has occurred and is continuing:

(e) Upon each increase in the Commitments pursuant to this Section 2.23, (i) each Lender immediately prior to such increase will automatically and without further act be deemed to have assigned to each Lender providing a portion of the Commitment Increase (each a "**Commitment Increase Lender**") in respect of such increase, and each such Commitment Increase Lender will automatically and without further act be deemed to have assumed, a portion of such Lender's participations hereunder in outstanding Letters of Credit and Swingline Loans such that, after giving effect to each such deemed assignment and assumption of participations, the percentage of the aggregate outstanding (A) participations hereunder in Letters of Credit and (B) participations hereunder in Swingline Loans held by each Lender (including each such Commitment Increase Lender) will equal the percentage of the Aggregate Commitments of all Lenders represented by such Lender's Commitment and (ii) if, on the date of such increase, there are any Revolving Loans outstanding, such Revolving Loans

shall on or prior to the effectiveness of such Commitment Increase be prepaid from the proceeds of additional Revolving Loans made hereunder (reflecting such increase in Commitments), which prepayment shall be accompanied by accrued interest on the Revolving Loans being prepaid and any costs incurred by any Lender in accordance with Section 2.16. The Administrative Agent and the Lenders hereby agree that the minimum borrowing, *pro rata* borrowing and *pro rata* payment requirements contained elsewhere in this Agreement shall not apply to the transactions effected pursuant to the immediately preceding sentence.

(f) This Section 2.23 shall supersede any provision in Section 2.18 or 9.02 to the contrary.

Section 2.24 Reserves; Changes to Eligibility Criteria. The Administrative Agent may at any time and from time to time in the exercise of its Permitted Discretion upon **three (3)** Business Days' prior written notice to the Borrower Representative, which notice shall include a reasonably detailed description of such Reserve being established or change to any eligibility criteria being made (during which period (x) the Administrative Agent shall, if requested, discuss any such Reserve or change with the Borrower Representative, (y) the Borrower Representative may take such action as may be required so that the event, condition or matter that is the basis for such Reserve or change thereto no longer exists or exists in a manner that would result in the establishment of a lower Reserve or result in a lesser change thereto, in a manner and to the extent reasonably satisfactory to the Administrative Agent and (z) Borrowings that would cause a breach of the limitations set out in Sections 2.01(a)-(d) upon imposition of such Reserve shall not be permitted), (x) establish and increase or decrease Reserves in accordance with the terms hereof or (y) modify eligibility standards under the definitions of "Eligible Trade Accounts Receivable," "Eligible Credit Card Receivables" or "Eligible Inventory". In exercising such Permitted Discretion, the Administrative Agent may include in its consideration any of the following: (a) changes after the Closing Date in demand for, pricing of, or product mix of Inventory; (b) changes after the Closing Date in any concentration of risk with respect to a Loan Party's Accounts or Inventory; and (c) any other factors arising after the Closing Date that change in any material respect the credit risk of lending to the Borrowers on the security of a Loan Party's Accounts or Inventory. Notwithstanding any other provision of this Agreement to the contrary, (a) the establishment or increase of any Reserves or changes in any eligibility criteria shall be limited to such Reserves and changes as the Administrative Agent determines, in its Permitted Discretion, are appropriate based on the analysis of facts or events first occurring or first discovered by the Administrative Agent after the Closing Date or that differ materially from facts or events occurring and known to the Administrative Agent on the Closing Date, (b) in no event shall Reserves or changes in eligibility criteria with respect to any component of the Borrowing Base duplicate Reserves or adjustments already accounted for determining eligibility criteria, (c) the amount of any such Reserve or change in eligibility criteria shall be a reasonable quantification of the incremental dilution of the Borrowing Base attributable to the relevant contributing factors and shall have a reasonable relationship to the event, condition or other matter that is the basis for such Reserve or change and (d) in no event shall Reserves be imposed on the first **5.0%** of dilution of Accounts or exceed **1.0%** for each incremental percentage of dilution over **5.0%**.

Section 2.25 Extensions of Revolving Loans/Commitments.

(a) Notwithstanding anything to the contrary in this Agreement, pursuant to one or more offers (each, an "**Extension Offer**") made from time to time by the Borrowers to all Lenders holding Revolving Loans or Commitments, in each case on a *pro rata* basis (based on the aggregate outstanding principal amount of the respective Revolving Loans or Commitments) and on the same terms to each such Lender, the Borrowers are hereby permitted to consummate from time to time transactions with individual Lenders that accept the terms contained in such Extension Offers to extend the maturity date of each such Lender's Revolving Loans and/or Commitments and otherwise modify the terms of

such Revolving Loans and/or Commitments pursuant to the terms of the relevant Extension Offer which are applicable after the Latest Maturity Date of the Revolving Loans which are not Extended Revolving Loans (including by increasing the interest rate or fees payable in respect of such Revolving Loans and/or Commitments (and related outstandings)) (each, an "**Extension**", and each group of Loans or commitments, as applicable, in each case as so extended, as well as the original Loans and the original commitments (in each case not so extended), being a "**tranche**"), so long as the following terms are satisfied:

(i) no Default or Event of Default shall exist at the time the notice in respect of an Extension Offer is delivered to the applicable Lenders, and no Default or Event of Default shall exist immediately prior to or after giving effect to the effectiveness of any Extension;

(ii) except as to interest rates, fees and final maturity which are applicable after the Latest Maturity Date of Revolving Loans which are not Extended Revolving Loans (which shall, subject to the immediately succeeding clause (iv), be determined by the Borrower Representative and set forth in the relevant Extension Offer), the commitments of any Lender under any Commitment Increase that agrees to an extension with respect to such commitments extended pursuant to an Extension (an "**Extended Revolving Credit Commitment**"; and the Loans thereunder, "**Extended Revolving Loans**"), and the related outstandings, shall be a revolving commitment (or related outstandings, as the case may be) with the same terms as the original revolving commitments (and related outstandings) provided hereunder; provided that (x) to the extent any non-extended revolving commitments remain, (1) the borrowing and repayment (except for (A) repayments required upon the maturity date of any such revolving facilities and (B) repayment made in connection with a permanent repayment and termination of commitments (subject to clause (3) below)) of Loans with respect to such revolving facilities after the effective date of such Extended Revolving Credit Commitments shall be made on a *pro rata* basis with all other revolving facilities (the mechanics of which may be implemented through the applicable documentation pertaining to the Extension Offer and may include technical changes related to the borrowing and repayment procedures of the Credit Facility), (2) all swingline loans and letters of credit under any such revolving facilities shall be participated on a *pro rata* basis by all Lenders with commitments under any such revolving facilities and shall be treated identically to all such other swingline loans and letters of credit, except that the applicable documentation pertaining to the Extension Offer may provide that the availability period for making such swingline loans and/or the last day for issuing letters of credit be continued pursuant to mechanics set forth in such documentation so long as the Swingline Lender and the applicable Issuing Bank, as applicable, have consented to such extensions (it being understood that no consent of any other Lender shall be required in connection with any such extension) and (3) permanent repayments of Loans with respect to, and termination of commitments under, any such revolving facilities after the effective date of such Extended Revolving Credit Commitments shall be made on a *pro rata* basis with all other such revolving facilities, except that the Borrowers shall be permitted to permanently repay and terminate commitments of any such revolving facility on a greater than *pro rata* basis as compared to any other revolving facilities with a later maturity date than such revolving facility and (y) at no time shall there be more than two separate Classes of revolving commitments hereunder (including Extended Revolving Credit Commitments);

(iii) no Extended Revolving Credit Commitments or Extended Revolving Loans shall have a final maturity date earlier than (or require commitment reductions prior to) the Latest Maturity Date;

(iv) if the aggregate principal amount of Loans or commitments, as the case may be, in respect of which Lenders shall have accepted the relevant Extension Offer shall

exceed the maximum aggregate principal amount of Loans or commitments, as the case may be, offered to be extended by the Borrowers pursuant to such Extension Offer, then the Loans or commitments, as the case may be, of such Lenders shall be extended ratably up to such maximum amount based on the respective principal amounts (but not to exceed actual holdings of record) with respect to which such Lenders have accepted such Extension Offer;

(v) the Extensions shall be in a minimum amount of **$10,000,000**;

(vi) any applicable Minimum Extension Condition shall be satisfied or waived by the Borrower Representative; and

(vii) all documentation in respect of such Extension shall be consistent with the foregoing.

(b) With respect to all Extensions consummated by the Borrower Representative pursuant to this Section 2.25, (i) such Extensions shall not constitute voluntary or mandatory payments for purposes of Section 2.11, and (ii) except as set forth in clause (a)(viii) above, no Extension Offer is required to be in any minimum amount or any minimum increment; provided that the Borrower Representative may at its election specify as a condition (a "**Minimum Extension Condition**") to consummating any such Extension that a minimum amount (to be determined and specified in the relevant Extension Offer in the Borrower Representative's sole discretion and which may be waived by the Borrower Representative) of Loans or commitments (as applicable) of any or all applicable tranches be tendered. The Administrative Agent and the Lenders hereby consent to the transactions contemplated by this Section 2.25 (including, for the avoidance of doubt, payment of any interest, fees or premium in respect of any Extended Revolving Credit Commitments on such terms as may be set forth in the relevant Extension Offer) and hereby waive the requirements of any provision of this Agreement (including Section 2.10, 2.11 or 2.18) or any other Loan Document that may otherwise prohibit any such Extension or any other transaction contemplated by this Section.

(c) No consent of any Lender or the Administrative Agent shall be required to effectuate any Extension, other than the consent of each Lender agreeing to such Extension with respect to one or more of its Loans and/or commitments under any Class (or a portion thereof). All Extended Revolving Credit Commitments and all obligations in respect thereof shall be Secured Obligations under this Agreement and the other Loan Documents that are secured by the Collateral and guaranteed on a *pari passu* basis with all other applicable Secured Obligations under this Agreement and the other Loan Documents. The Lenders hereby irrevocably authorize the Administrative Agent to enter into amendments to this Agreement and the other Loan Documents with the Borrower Representative as may be necessary in order to establish new tranches or sub-tranches in respect of Loans or commitments so extended and such technical amendments as may be necessary or appropriate in the reasonable opinion of the Administrative Agent and the Borrower Representative in connection with the establishment of such new tranches or sub-tranches, in each case on terms consistent with this Section 2.25.

(d) In connection with any Extension, the Borrower Representative shall provide the Administrative Agent at least **ten (10)** Business Days' (or such shorter period as may be agreed by the Administrative Agent) prior written notice thereof, and shall agree to such procedures (including regarding timing, rounding and other adjustments and to ensure reasonable administrative management of the credit facilities hereunder after such Extension), if any, as may be established by, or acceptable to, the Administrative Agent, in each case acting reasonably to accomplish the purposes of this Section 2.25.

ARTICLE 3 REPRESENTATIONS AND WARRANTIES

On the dates and to the extent required pursuant to Sections 4.01 and 4.02 hereof, each Borrower and the other Loan Parties, on behalf of themselves and their respective Subsidiaries represent and warrant to the Lenders that:

Section 3.01 Organization; Powers. Each of the Loan Parties and each of its Subsidiaries (a) is duly organized, validly existing and in good standing (to the extent such concept exists in such jurisdiction) under the laws of the jurisdiction of its organization, (b) has all requisite power and authority to own its property and assets and to carry on its business as now conducted and (c) is qualified to do business in, and is in good standing in, every jurisdiction where its ownership, lease or operation of properties or conduct of its business requires such qualification; except, in each case referred to in this Section 3.01 (other than clause (a) with respect to each Borrower and clause (b) with respect to the Loan Parties) where the failure to do so, individually or in the aggregate, would not reasonably be expected to result in a Material Adverse Effect.

Section 3.02 Authorization; Enforceability. The execution, delivery and performance of each of the Loan Documents are within each applicable Loan Party's corporate or other organizational powers and have been duly authorized by all necessary corporate or other organizational action of such Loan Party. Each Loan Document to which any Loan Party is a party has been duly executed and delivered by such Loan Party and is a legal, valid and binding obligation of such Loan Party, enforceable in accordance with its terms, subject to applicable bankruptcy, insolvency or similar laws affecting creditors' rights generally and to general principles of equity and principles of good faith and dealing.

Section 3.03 Governmental Approvals; No Conflicts. The execution and delivery of the Loan Documents by each Loan Party party thereto and the performance by such Loan Party thereof (a) do not require any consent or approval of, registration or filing with, or any other action by, any Governmental Authority, except (i) such as have been obtained or made and are in full force and effect, (ii) for filings necessary to perfect Liens created pursuant to the Loan Documents and (iii) such consents, approvals, registrations, filings, or other actions the failure to obtain or make which could not be reasonably expected to have a Material Adverse Effect, (b) will not violate any (i) of such Loan Party's Organizational Documents or (ii) any Requirements of Law applicable to such Loan Party which, in the case of this clause (b)(ii), could reasonably be expected to have a Material Adverse Effect and (c) will not violate or result in a default under (i) the Note Purchase Agreement or (ii) any other Contractual Obligation of any of the Loan Parties which in the case of this clause (c)(ii) could reasonably be expected to result in a Material Adverse Effect.

Section 3.04 Financial Condition; No Material Adverse Effect.

(a) The Borrower Representative has heretofore furnished to the Administrative Agent the consolidated balance sheet and related consolidated statements of income for the fiscal year ended December 31, 2014 for Rockport and its subsidiaries. Such financial statements present fairly, in all material respects, the financial position and results of operations and cash flows of Rockport and its subsidiaries as of such dates and for such periods in accordance with IFRS.

(b) Since January 23, 2015, no Material Adverse Effect has occurred.

Section 3.05 Properties.

(a) As of the date of this Agreement, Schedule 3.05 sets forth the address of each parcel of real property (or each set of parcels that collectively comprise one operating property) that is owned in fee simple by any Loan Party.

(b) Rockport Group and each of its Subsidiaries has good and valid fee simple title to or rights to purchase, or valid leasehold interests in, or easements or other limited property interests in, or rights to use (pursuant to the Transition Services Agreement) all its Real Estate Assets (including any Mortgaged Properties) and has good and marketable title to its personal property and assets, in each case, except (i) for defects in title that do not materially interfere with its ability to conduct its business as currently conducted or to utilize such properties and assets for their intended purposes or (ii) where the failure to have such title would not reasonably be expected to have a Material Adverse Effect. All such properties and assets are free and clear of Liens, other than Permitted Liens.

(c) Rockport Group and its Subsidiaries own or otherwise have a license or right to use all rights in patents, trademarks, service marks, trade names, domain names, copyrights and other rights in works of authorship (including all copyrights embodied in software), trade secrets and all other similar intellectual property rights ("**IP Rights**") needed to conduct the businesses of Rockport Group and its Subsidiaries as presently conducted without, to the knowledge of Rockport Group, any infringement or misappropriation of the IP Rights or third parties, except to the extent such failure to own or license or have rights to use would not, or where such infringement or misappropriation would not, have, individually or in the aggregate, a Material Adverse Effect.

Section 3.06 Litigation and Environmental Matters.

(a) There are no actions, suits or proceedings by or before any arbitrator or Governmental Authority pending against or, to the knowledge of any Borrower, threatened in writing against or affecting the Loan Parties or any of their Subsidiaries which would reasonably be expected, individually or in the aggregate, to result in a Material Adverse Effect.

(b) Except for any matters that, individually or in the aggregate, would not reasonably be expected to result in a Material Adverse Effect, (i) no Loan Party nor any of its Subsidiaries has received notice of any claim with respect to any Environmental Liability or knows of any basis for any Environmental Liability and (ii) no Loan Party nor any of its Subsidiaries (A) has failed to comply with any Environmental Law or to obtain, maintain or comply with any permit, license or other approval required under any Environmental Law or (B) has become subject to any Environmental Liability.

(c) Neither Rockport Group nor any of its Subsidiaries has treated, stored, transported or disposed of Hazardous Materials at or from any currently or formerly operated real estate or facility relating to its business in a manner that would reasonably be expected to have a Material Adverse Effect.

Section 3.07 Compliance with Laws. Each of Rockport Group and its Subsidiaries is in compliance with all Requirements of Law applicable to it or its property, except, in each case, where the failure to do so, individually or in the aggregate, would not reasonably be expected to result in a Material Adverse Effect.

Section 3.08 Investment Company Status. No Loan Party is an "investment company" as defined in, or is required to be registered under, the Investment Company Act of 1940, or subject to regulation under any Canadian federal, provincial, territorial, local or foreign statute, rule or regulation limiting its ability to incur Indebtedness, pledge its assets or perform its obligations under the Loan Documents.

Section 3.09 Taxes. Each of Rockport Group and its Subsidiaries have timely filed or caused to be filed all Tax returns and reports required to have been filed and has paid or caused to be paid all Taxes required to have been paid by it that are due and payable and all written assessments received by it,

except (a) Taxes that are being contested in good faith by appropriate proceedings and for which such Loan Party or such Subsidiary, as applicable, has set aside on its books adequate reserves in accordance with IFRS (or GAAP as applicable) or (b) to the extent that the failure to do so, individually or in the aggregate, would not reasonably be expected to result in liabilities in excess of **$2,000,000**. There is no tax assessment proposed in writing against Rockport Group or its Subsidiaries that would, if made, have a Material Adverse Effect.

Section 3.10 ERISA; Canadian Benefit Plans, Canadian Pension Plans and UK Pension Plans.

(a) No ERISA Event has occurred in the five-year period prior to the date on which this representation is made or deemed made and is continuing that, when taken together with all other such ERISA Events, would reasonably be expected to result in a Material Adverse Effect. No Canadian Pension Event has occurred in the five-year period prior to the date on which this representation is made or deemed made and is continuing that, when taken together with all other such Canadian Pension Events, would reasonably be expected to result in a Material Adverse Effect. As of the Closing Date, Schedule 3.10 lists all Canadian Benefit Plans and Canadian Pension Plans maintained or contributed to by each Loan Party, and indicates, for each Canadian Pension Plan, whether such Canadian Pension Plan is a defined benefits plan or a defined contribution plan. As of the Closing Date, no Loan Party maintains, contributes to or is otherwise liable in respect of any Canadian Defined Benefit Plan. The Canadian Pension Plans are duly registered under the ITA and all other applicable laws which require registration.

(b) No Loan Party is or has at any time been an employer (for the purposes of sections 38 to 51 of the United Kingdom Pensions Act 2004) of an occupational pension scheme which is not a money purchase scheme (both terms as defined in the United Kingdom Pensions Schemes Act 1993).

(c) No Loan Party is or has at any time been "connected" with or an "associate" of (as those terms are used in sections 38 and 43 of the United Kingdom Pensions Act 2004) such an employer.

Section 3.11 Disclosure.

(a) As of the Closing Date, all written information (other than the Projections, other forward-looking information and information of a general economic or industry-specific nature) that has been made available concerning Holdings, Rockport Group and its Subsidiaries or the Transactions and prepared by or on behalf of the foregoing or Sponsor or their respective representatives and made available to any Lender or the Administrative Agent in connection with the Transactions on or before the date hereof (the "**Information**"), when taken as a whole, did not, when furnished, contain any untrue statements of a material fact or omit to state a material fact necessary in order to make the statements contained therein not materially misleading in light of the circumstances under which such statements are made (after giving effect to all supplements and updates thereto from time to time).

(b) The Projections have been prepared in good faith based upon assumptions believed by the Borrowers to be reasonable at the time furnished (it being recognized that such Projections are not to be viewed as facts and are subject to significant uncertainties and contingencies many of which are beyond the Borrowers' control, that no assurance can be given that any particular financial projections will be realized, that actual results may differ from projected results and that such differences may be material).

Section 3.12 Borrowing Base Certificate. The information set forth in the most recent Borrowing Base Certificate is true and correct and has been prepared in accordance with the requirements of this Agreement. The Accounts that are identified by the Borrower Representative as Eligible Trade Accounts Receivable, the Credit Card Receivables that are identified by the Borrower Representative as Eligible Credit Card Receivables and the Inventory that is identified by the Borrower Representative as Eligible Inventory, in each Borrowing Base Certificate submitted to the Administrative Agent, at the time of submission, comply with the criteria (other than any Administrative Agent-discretionary criteria) set forth in the definition of Eligible Trade Accounts Receivable, Eligible Credit Card Receivables and Eligible Inventory, respectively.

Section 3.13 Solvency. As of the Closing Date, immediately after the consummation of the Transactions to occur on the Closing Date and the incurrence of indebtedness and obligations being incurred in connection with this Agreement and the Note Purchase Agreement on the Closing Date, (i) the fair value of the assets of Rockport Group and its Subsidiaries, on a consolidated basis, exceeds, on a consolidated basis, their debts and liabilities, subordinated, contingent or otherwise; (ii) the present fair saleable value of the property of Rockport Group and its Subsidiaries, on a consolidated basis, is greater than the amount that will be required to pay the probable liability, on a consolidated basis, of their debts and other liabilities, subordinated, contingent or otherwise, as such debts and other liabilities become absolute and matured; (iii) Rockport Group and its Subsidiaries, on a consolidated basis, are able to pay their debts and liabilities, subordinated, contingent or otherwise, as such liabilities become absolute and matured; and (iv) Rockport Group and its Subsidiaries, on a consolidated basis, are not engaged in, and are not about to engage in, business for which they have unreasonably small capital. For the purposes hereof, the amount of any contingent liability at any time shall be computed as the amount that, in light of all of the facts and circumstances existing at such time, represents the amount that would reasonably be expected to become an actual and matured liability.

Section 3.14 **[Reserved]**.

Section 3.15 Capitalization and Subsidiaries. Schedule 3.15 sets forth, in each case as of the Closing Date, (a) a correct and complete list of the name of each Subsidiary of Rockport Group and the ownership interest therein held by Rockport Group or its applicable Subsidiary, and (b) the type of entity of Rockport Group and each of its Subsidiaries.

Section 3.16 Security Interest in Collateral. Subject to the terms of the last paragraph of Section 4.01, the provisions of this Agreement and the other Loan Documents create legal, valid and enforceable Liens on all of the Collateral in favor of the Administrative Agent, for the benefit itself and the other Secured Parties, subject, as to enforceability, to applicable bankruptcy, insolvency or similar laws affecting creditors' rights generally and to general principles of equity and principles of good faith and dealing, and upon the making of such filings and taking of such other actions required to be taken hereby or by the applicable Loan Documents (including the filing of appropriate financing statements with the office of the Secretary of State of the state of organization of each Loan Party or under any Canadian provincial personal property security registry, the filing of appropriate assignments or notices with the U.S. Patent and Trademark Office, the U.S. Copyright Office and the Canadian Intellectual Property Office, and the proper recordation of Mortgages and fixture filings with respect to any Material Real Estate Assets, in each case in favor of the Administrative Agent for the benefit of the Secured Parties and the delivery to the Administrative Agent of any stock certificates or promissory notes required to be delivered pursuant to the applicable Loan Documents), such Liens constitute perfected and continuing Liens on the Collateral of the type and priority required by the Collateral Documents, securing the Secured Obligations of the Loan Parties.

Section 3.17 Labor Disputes. As of the Closing Date, except as, individually or in the aggregate, would not reasonably be expected to have a Material Adverse Effect, there are no strikes, lockouts or slowdowns against Rockport Group or any of its Subsidiaries pending or, to the knowledge of Rockport Group or any of its Subsidiaries, overtly threatened.

Section 3.18 Federal Reserve Regulations.

(a) On the Closing Date, none of the Collateral is Margin Stock and not more than **25%** of the value of the assets of Holdings, Rockport Group and its Subsidiaries, taken as a whole, is represented by Margin Stock.

(b) None of Holdings, Rockport Group nor any of its Subsidiaries is engaged principally, or as one of its important activities, in the business of extending credit for the purpose of buying or carrying Margin Stock.

(c) No part of the proceeds of any Loan or any Letter of Credit will be used, whether directly or indirectly, and whether immediately, incidentally or ultimately, for any purpose that entails a violation of the provisions of Regulation T, U or X.

Section 3.19 Centre of Main Interests and Establishments. For the purposes of The Council of the European Union Regulation No. 1346/2000 on Insolvency Proceedings (the "Regulation"), the centre of main interest (as that term is used in Article 3(1) of the Regulation) of each Loan Party is situated in its jurisdiction of incorporation and it has no "establishment" (as that term is used in Article 2(h) of the Regulations) in any other jurisdiction.

Section 3.20 Anti-Terrorism Laws.

(a) None of Holdings, UK Holdings, Rockport Group or any of its Subsidiaries nor, to the knowledge of Rockport Group, any director, officer, agent or employee of any of the foregoing is, or is owned or controlled by (i) a Person on the list of "Specially Designated Nationals and Blocked Persons" or designated by the Canadian government as a "politically exposed foreign person" or "terrorist group" or similar person whose property or interests in property are blocked or subject to blocking pursuant to, or as described in any list set out in the *United National al-Qaida and Taliban Regulations* or the *Regulations Implementing the United Nations Resolutions on the Suppression of Terrorism* or the *Criminal Code* or any other Canadian laws, regulations or orders governing transactions in controlled goods or technologies or dealings with countries, entities, organizations, or individuals subject to economic sanctions and similar measures (collectively "**Canadian Sanctions Laws**"); or (ii) currently subject to any sanctions administered or enforced by the Office of Foreign Assets Control of the U.S. Treasury Department ("**OFAC**"), the U.S. Department of State, the United Nations Security Council, the European Union or Her Majesty's Treasury, or by a government of Canada pursuant to Canadian Sanctions Laws; and the Borrowers will not directly or, to the knowledge of any Borrower, indirectly use the proceeds of the Loans or Letters of Credit or otherwise make available such proceeds to any Subsidiary, joint venture partner or other Person, for the purpose of financing the activities of any Person currently subject to (i) any. sanctions administered or enforced by OFAC, the U.S. Department of State, the United Nations Security Council, the European Union or Her Majesty's Treasury; or (ii) by a government of Canada pursuant to Canadian Sanctions Laws, except to the extent licensed or otherwise approved by any of the foregoing.

(b) To the extent applicable, each Loan Party is in compliance with the (i) Trading with the Enemy Act, as amended, and each of the foreign assets control regulations of the United States Treasury Department (31 CFR, Subtitle B, Chapter V, as amended) and any other enabling legislation or

executive order relating thereto, (ii) the USA PATRIOT Act, and (iii) the applicable anti-money laundering and counter-terrorism financing provisions of the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* (Canada), the *Criminal Code* (Canada), the *United Nations Act* (Canada) and all other Canadian laws, rules, and regulations applicable to any Loan Party from time to time concerning anti-money laundering, anti-terrorist financing, government sanction bribery or corruption ("**Canadian AML Laws**").

(c) No part of the proceeds of any Loan or any Letter of Credit will be used, directly or, to the knowledge of any Borrower, indirectly, for any payments to any governmental official or employee, political party, official of a political party, candidate for political office, or anyone else acting in an official capacity, in order to obtain, retain or direct business or obtain any improper advantage, in violation of any applicable law, including the United States Foreign Corrupt Practices Act of 1977, as amended, *Corruption of Foreign Public Officials Act* (Canada) or similar applicable laws of any other jurisdiction.

ARTICLE 4 CONDITIONS

Section 4.01 Closing Date. The obligations of the Lenders to make Loans and of any Issuing Bank to issue Letters of Credit hereunder shall not become effective until the date on which each of the following conditions is satisfied (or waived in accordance with Section 9.02):

(a) Credit Agreement and Loan Documents. The Administrative Agent (or its counsel) shall have received from each of the Loan Parties a counterpart of this Agreement signed on behalf of such party (if applicable), the Pledge and Security Agreement, the Intercreditor Agreement, each Promissory Note (to the extent requested at least **three (3)** Business Days prior to the Closing Date) and each other Loan Document to be executed on the Closing Date, signed on behalf of such party.

(b) Legal Opinions. The Administrative Agent shall have received, on behalf of itself, the Lenders and each Issuing Bank on the Closing Date, a favorable written opinion of Goodwin Procter LLP, counsel for Holdings, Rockport Group and each other Loan Party, of McCarthy Tétrault LLP, Canadian counsel for the Canadian Loan Parties, and where not covered by such opinion, opinions of provincial counsel where each Canadian Loan Party is organized or maintains tangible property (A) dated the Closing Date, (B) addressed to the Administrative Agent, each Issuing Bank and the initial Lenders and (C) in form and substance reasonably satisfactory to the Administrative Agent and covering such matters relating to the Loan Documents as the Administrative Agent shall reasonably request.

(c) Pro Forma Financial Statements. The Administrative Agent shall have received a pro forma consolidated balance sheet and related pro forma consolidated statement of income of Rockport Group as of and for the **12-month** period ending on the last day of the most recently completed four-fiscal quarter period ended at least **thirty (30)** days (or **ninety (90)** days in case such four-fiscal quarter period is the end of Rockport Group's fiscal year) prior to the Closing Date, prepared after giving effect to the Transactions as if the Transactions had occurred as of such date (in the case of such balance sheet) or at the beginning of such period (in the case of the statement of income); provided that (i) each such pro forma financial statement shall be prepared in good faith by Rockport Group and (ii) no such pro forma financial statement shall be required to include adjustments for acquisition accounting (including adjustments of the type contemplated by Financial Accounting Standards Board Accounting Standards Codification 805, Business Combinations (formerly SFAS 141R)).

(d) Audited Carve-Out Balance Sheets. The Administrative Agent shall have received audited carve-out balance sheets and related statements of comprehensive income, shareholders' equity and cash flows of Rockport and its subsidiaries for the Fiscal Years ended December 31, 2012,

December 31, 2013 and December 31, 2014 (which audited carve-out balance sheets and related statements for the Fiscal Year ended December 31, 2014 shall have been audited by KPMG LLP (or another comparable accounting firm reasonably satisfactory to the Administrative Agent) using accounting standards and procedures substantially similar to those used to produce audited carve-out balance sheets and related statements for the prior Fiscal Years; provided that the results of such audit shall not impact the rights and obligations of the parties hereunder).

(e) Closing Certificates; Certified Charters; Good Standing Certificates. The Administrative Agent shall have received (i) a certificate of each Loan Party, dated the Closing Date and executed by a Secretary, Assistant Secretary or other senior officer, which shall (A) certify that attached thereto is a true and complete copy of the resolutions or written consents of its board of directors, members or other governing body authorizing the execution, delivery and performance of the Loan Documents to which it is a party and, in the case of the Borrowers, the borrowings hereunder, and that such resolutions or written consents have not been modified, rescinded or amended and are in full force and effect, (B) identify by name and title and bear the signatures of the officers of such Loan Party authorized to sign the Loan Documents to which it is a party on the Closing Date and (C) certify that attached thereto is a true and complete copy of the certificate or articles of incorporation or organization (or memorandum of association or other equivalent thereof) of each Loan Party certified by the relevant authority of the jurisdiction of organization of such Loan Party and a true and correct copy of its by-laws or operating, management or partnership agreement and that such documents or agreements have not been amended since the date of the last amendment thereto shown on the certificate of good standing, certificate of status or certificate of compliance, referred to below (except as otherwise attached to such certificate and certified therein as being the only amendments thereto as of such date) and (ii) a certificate of good standing, certificate of status or certificate of compliance (to the extent such concept is known or applicable in the relevant jurisdiction) as of a recent date for each Loan Party from its jurisdiction of organization.

(f) Representations and Warranties. The (i) Specified Acquisition Agreement Representations shall be true and correct as required by the terms of the definition thereof and (ii) the Specified Representations shall be true and correct in all material respects; provided that in the case of any Specified Acquisition Agreement Representation or Specified Representation which expressly relates to a given date or period, such representation and warranty shall be true and correct in all material respects as of the respective date or for the respective period, as the case may be; provided, further, that if any of the Specified Representations are qualified by or subject to a "material adverse effect", "material adverse change" or similar term or qualification, the definition thereof shall be a Company Material Adverse Effect for purposes of any such representations and warranties made or deemed made on, or as of, the Closing Date (or any date prior thereto).

(g) Fees. The Administrative Agent shall have received all fees required to be paid by the Borrowers on the Closing Date pursuant to the Fee Letter and all expenses payable hereunder, in each case, for which invoices have been presented at least **three (3)** Business Days prior to the Closing Date (including the reasonable fees and expenses of legal counsel), on or before the Closing Date, in each case which amounts may be offset against the proceeds of the Loans.

(h) Lien Searches. The Administrative Agent shall have received the results of a recent lien search in each jurisdiction where the Loan Parties are organized and where the assets of the Loan Parties are located, and such searches shall reveal no Liens on any of the assets of the Loan Parties except for Liens permitted by Section 6.02 or subject to satisfactory estoppel letters discharged on or prior to the Closing Date pursuant documentation satisfactory to the Administrative Agent.

(i) Borrowing Request. To the extent the Borrower Representative elects to request any Credit Extension on the Closing Date, the Administrative Agent shall have received the applicable documents required under Section 4.02(a) as if such request(s) were made in respect of any applicable Credit Extension to be made on the Closing Date. The aggregate principal amount of the Credit Extensions (other than the issuance of any Letters of Credit) to be made on the Closing Date shall not exceed the sum of (x) $15,000,000 to finance the Transactions and fees and expenses incurred in connection with the Transactions and (y) the amount necessary to fund any working capital needs of the Borrowers on the Closing Date.

(j) Refinancing. On the Closing Date, the Existing Debt Refinancing shall have been or, substantially concurrently with the initial extensions of credit hereunder shall be, consummated.

(k) Equity Contribution; Senior Notes. Prior to or substantially concurrently with the initial extensions of credit hereunder, the Equity Contribution shall have been consummated (to the extent not otherwise applied to the Transactions). Prior to or substantially concurrently with the initial extensions of credit hereunder, the Borrowers shall have received **$130 million** in gross cash proceeds from the issuance of the Senior Notes and/or the Additional Equity.

(l) Solvency. The Administrative Agent shall have received a certificate in substantially the form of Exhibit J from a Financial Officer of the Borrower Representative certifying as to the matters set forth therein.

(m) Borrowing Base Certificate. The Administrative Agent shall have received a Borrowing Base Certificate, dated as of the Closing Date, demonstrating that, after giving effect to any applicable Credit Extension on the Closing Date, no breach of the limitations set out in Sections 2.01(a)-(d) shall exist.

(n) Pledged Stock; Stock Powers; Pledged Notes. Subject to the final paragraph of this Section 4.01 and subject to the terms of the Intercreditor Agreement, the Administrative Agent (or its bailee) shall have received (i) the certificates representing the Capital Stock of the Borrowers and the Subsidiary Guarantors organized under the laws of the United States and Canada required to be pledged pursuant to the Pledge and Security Agreement, together with an undated stock or similar power for each such certificate executed in blank by a duly authorized officer of the pledgor thereof and (ii) each promissory note (if any) required to be pledged to the Administrative Agent (or its bailee) pursuant to the Pledge and Security Agreement, endorsed (without recourse) in blank (or accompanied by an executed transfer form in blank) by the pledgor thereof.

(o) Perfection Certificate. The Administrative Agent shall have received a completed Perfection Certificate dated the Closing Date and signed by a Responsible Officer of each Loan Party, together with all attachments contemplated thereby.

(p) Filings Registrations and Recordings. Subject to the last paragraph of this Section 4.01, each document (including any UCC or PPSA financing statement) required by the Collateral Documents or under law or reasonably requested by the Administrative Agent to be filed, registered or recorded in order to create in favor of the Administrative Agent, for the benefit of the Secured Parties, a perfected Lien on the Collateral described therein, prior and superior in right to any other Person (other than with respect to Permitted Liens), shall be in proper form for filing, registration or recordation. The Administrative Agent, on behalf of the Lenders, shall have a security interest in the Collateral of the type and priority described in the Collateral Documents (except for the Mortgages) (subject to Permitted Liens and, subject to the terms of the Intercreditor Agreement, the Liens granted under the Senior Notes Security Documents).

(q) Insurance. The Administrative Agent shall have received evidence of insurance coverage in compliance with the terms of Section 5.05 hereof.

(r) Transactions. Substantially concurrently with the initial extensions of credit hereunder, the transactions contemplated by the Master Purchase Agreement shall have been consummated in accordance with the terms of the Master Purchase Agreement, but without giving effect to any amendments, waivers or consents by Holdings or Seller that are materially adverse to the interests of the initial Lender or the Arranger and their respective affiliates that are party hereto as Lenders on the Closing Date in their respective capacities as such without the consent of the Arranger, such consent not to be unreasonably withheld, delayed or conditioned (it being understood that (a) any decrease in the purchase price shall not be materially adverse to the interests of the Arranger (or such affiliates) so long as such decrease is allocated as follows: (1) **65%** to reduce the Senior Notes and (2) **35%** to reduce the Equity Contribution, (b) any increase in the purchase price shall not be materially adverse to the Arranger (or such affiliates) so long as such increase is funded by amounts permitted to be drawn hereunder or the Equity Contribution (as it may be increased), (c) the granting of any consent under the Master Purchase Agreement that is not materially adverse to the interests of the Arranger (or such affiliates) shall not otherwise constitute an amendment or waiver) and (d) any change to the definition of "Company Material Adverse Effect" in the Master Purchase Agreement shall be deemed materially adverse to the initial Lender or the Arranger).

(s) Company Material Adverse Effect. Since January 23, 2015, no event or change shall have occurred that has had, or would reasonably be expected to have, a Company Material Adverse Effect.

(t) "Know Your Customer" Information. No later than **two (2)** Business Days in advance of the Closing Date, the Administrative Agent shall have received all documentation and other information reasonably requested by it in writing at least **ten (10)** Business Days in advance of the Closing Date, which documentation or other information is required by regulatory authorities under applicable "**know your customer**" and anti-money laundering rules and regulations, including, without limitation, the USA PATRIOT Act and the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* (Canada).

(u) Existing Indebtedness. Concurrently with the funding of the Credit Facility, the Administrative Agent shall have received satisfactory evidence of termination by the existing lenders of the Existing Credit Agreement and all existing financing arrangements with Rockport Group and its Subsidiaries (other than Indebtedness permitted pursuant to Section 6.01) and of termination and release by the existing lenders or other holders of liens of any interest in and to any assets and properties of Rockport Group and its Subsidiaries (other than Liens permitted pursuant to Section 6.02), each in form and substance reasonably satisfactory to the Administrative Agent.

(v) Field Exam and Inventory Appraisal. The Administrative Agent shall have received a field examination and inventory appraisal of the Revolving Collateral.

For purposes of determining whether the conditions specified in this Section 4.01 have been satisfied, by releasing its signature page hereto (or to an Assignment and Assumption), the Administrative Agent and each Lender that has executed this Agreement (or such Assignment and Assumption) shall be deemed to have consented to, approved or accepted, or to be satisfied with, each document or other matter required hereunder to be consented to or approved by or acceptable or satisfactory to the Administrative Agent or such Lender, as the case may be.

Notwithstanding the foregoing, to the extent any Collateral (including the creation or perfection of any security interest) is not or cannot be provided on the Closing Date (other than, (i) a Lien on Collateral that may be perfected solely by the filing of a financing statement under the UCC or PPSA and (ii) a pledge of the Capital Stock of Rockport Group and the Subsidiary Guarantors organized under the laws of the United States with respect to which a Lien may be perfected on the Closing Date by the delivery of a stock or equivalent certificate) after the Borrowers' use of commercially reasonable efforts to do so without undue burden or expense, then the provision and/or perfection of such Collateral shall not constitute a condition precedent to the availability and initial funding of the Loans on the Closing Date but may, if required, instead be delivered and/or perfected in accordance with Section 5.13 hereof.

Section 4.02 Each Credit Extension. After the Closing Date, the obligation of each Lender to make a Credit Extension is subject to the satisfaction of the following conditions:

(a) (i) In the case of a Borrowing, the Administrative Agent shall have received a Borrowing Request as required by Section 2.03, (ii) in the case of the issuance of a Letter of Credit, the applicable Issuing Bank and the Administrative Agent shall have received a notice requesting the issuance of such Letter of Credit as required by Section 2.06(b) or (iii) in the case of a Swingline Borrowing, the Swingline Lender and the Administrative Agent shall have received a request as required by Section 2.05(a).

(b) The representations and warranties of the Loan Parties set forth in this Agreement and the other Loan Documents shall be true and correct in all material respects on and as of the date of any such Credit Extension with the same effect as though such representations and warranties had been made on and as of the date of such Credit Extension; provided that to the extent that a representation and warranty specifically refers to an earlier date, it shall be true and correct in all material respects as of such earlier date; provided, further, that, any representation and warranty that is qualified as to "materiality," "Material Adverse Effect" or similar language shall be true and correct (after giving effect to any qualification therein) in all respects on such respective dates.

(c) At the time of and immediately after giving effect to the applicable Credit Extension, no Event of Default or Default shall have occurred and be continuing.

(d) After giving effect to the applicable Credit Extension, no breach of the limitations set out in Sections 2.01(a)-(d) shall exist.

Each Credit Extension (other than Protective Advances) after the Closing Date shall be deemed to constitute a representation and warranty by each Borrower on the date thereof as to the matters specified in paragraphs (b), (c) and (d) of this Section.

ARTICLE 5 AFFIRMATIVE COVENANTS

Until the date that all the Commitments have expired or terminated and the principal of and interest on each Loan and all fees, expenses and other amounts payable under any Loan Document (other than contingent indemnification obligations for which no claim or demand has been made) have been paid in full in Cash and all Letters of Credit have expired or have been terminated (or have been cash collateralized or back-stopped by a letter of credit or otherwise in a manner reasonably satisfactory to the Administrative Agent and the Issuing Banks) and all LC Disbursements shall have been reimbursed (such date, the "**Termination Date**"), each of Rockport Group and its Subsidiaries covenant and agree with the Lenders that:

Section 5.01 Financial Statements and Other Reports. The Borrower Representative will deliver to the Administrative Agent for delivery to each Lender:

(a) Monthly Financials. Until the **eighteen (18) month** anniversary of the Closing Date, solely during the existence of a Weekly Reporting Period, and at all times thereafter (whether or not during the continuance of a Weekly Reporting Period), in each case, within **thirty (30)** days after the end of each of Fiscal Month, the monthly unaudited consolidated balance sheet of Rockport Group as at the end of such Fiscal Month and the related consolidated statements of income and cash flows of Rockport Group for such Fiscal Month, all in reasonable detail, together with a Financial Officer Certification with respect thereto (provided that prior to the termination of the Transition Services Agreement, such financial statements shall not be consolidated and shall be delivered separately for each of Rockport Group and Drydock);

(b) Quarterly Financial Statements. As soon as available, and in any event within **seventy-five (75)** days after the end of any Fiscal Quarter ending on or prior to March 31, 2016, and thereafter, within **forty-five (45)** days following the end of each of the first three Fiscal Quarters of any Fiscal Year), the consolidated balance sheet of Rockport Group as at the end of such Fiscal Quarter and the related consolidated statements of income, stockholders' equity and cash flows of Rockport Group for such Fiscal Quarter and for the period from the beginning of the then current Fiscal Year to the end of such Fiscal Quarter, all in reasonable detail, together with a Financial Officer Certification (provided that prior to the termination of the Transition Services Agreement, such financial statements shall not be consolidated and shall be separately delivered for each of Rockport Group and Drydock), subject to the absence of footnotes, normal year-end adjustments and the effects of acquisition accounting;

(c) Annual Financial Statements. As soon as available, and in any event within **one hundred fifty (150)** days after the end of the first Fiscal Year after the Closing Date, and thereafter, within **one hundred twenty (120)** days after the end of each Fiscal Year, (i) consolidated balance sheet of Rockport Group as at the end of such Fiscal Year and the related consolidated statements of income, stockholders' equity and cash flows of Rockport Group for such Fiscal Year, setting forth in each case in comparative form the corresponding figures for the previous Fiscal Year, in reasonable detail (provided that prior to the termination of the Transition Services Agreement, such financial statements shall not be consolidated and shall be separately delivered for each of Borrower Representative and Drydock); and (ii) with respect to such consolidated financial statements, a report thereon of KPMG LLP or other independent certified public accountants of recognized national standing (which report shall be unqualified as to "going concern" and scope of audit (except for qualifications pertaining to impending debt maturities occurring within **twelve (12) months** of such audit), and shall state that such consolidated financial statements fairly present, in all material respects, the consolidated financial position of Rockport Group as at the dates indicated and the results of its operations and cash flows for the periods indicated in conformity with GAAP;

(d) Compliance Certificate. Together with each delivery of financial statements pursuant to Sections 5.01(b) and **5.01(c)**, (i) a duly executed and completed Compliance Certificate (A) certifying that no Default or Event of Default has occurred and is continuing (or if one is, describing in reasonable detail such Default or Event of Default and the steps being taken to cure, remedy or waive the same) and (B) setting forth reasonably detailed calculations of Consolidated Total Assets and the Fixed Charge Coverage Ratio for the applicable Test Period as of the last day of the Fiscal Quarter or Fiscal Year, as the case may be, covered by such financial statements or, in respect of the calculation of Consolidated Total Assets only, stating that there has been no change to such amount since the date of delivery of the last Compliance Certificate, and (ii) (A) a summary of the pro forma adjustments necessary to eliminate the accounts of Unrestricted Subsidiaries (if any) from such financial statements and (B) a list identifying each subsidiary of Rockport Group as a Subsidiary or an Unrestricted Subsidiary

as of the date of delivery of such Compliance Certificate or confirming that there is no change in such information since the later of the Closing Date and the date of the last such list;

(e) **[Reserved]**;

(f) Notice of Default. Promptly upon any Responsible Officer of Holdings or any Borrower obtaining knowledge (i) of any Default or Event of Default or (ii) of the occurrence of any event or change that has caused or evidences or would reasonably be expected to cause or evidence, either in any case or in the aggregate, a Material Adverse Effect, a reasonably-detailed notice specifying the nature and period of existence of such condition, event or change and what action the applicable Borrower has taken, is taking and proposes to take with respect thereto;

(g) Notice of Litigation. Promptly upon any Responsible Officer of any Borrower obtaining knowledge of (i) the institution of, or written threat of, any Adverse Proceeding not previously disclosed in writing by the Loan Parties to the Administrative Agent or (ii) any material development in any Adverse Proceeding that, in the case of either clause (i) or (ii), that could reasonably be expected to have a Material Adverse Effect, written notice thereof together with such other non-privileged information as may be reasonably available to the Loan Parties to enable the Lenders and their counsel to evaluate such matters;

(h) ERISA/Canadian Pension. Promptly upon any Responsible Officer of any Borrower becoming aware of the occurrence of any ERISA Event or Canadian Pension Event that could reasonably be expected to have a Material Adverse Effect, a written notice specifying the nature thereof;

(i) Financial Plan. As soon as available and in any event no later than **ninety (90)** days after the beginning of each Fiscal Year commencing with the Fiscal Year ended December 31, 2015, a consolidated plan and financial forecast for each Fiscal Quarter of such Fiscal Year (a "**Financial Plan**"), including a forecasted consolidated balance sheet and forecasted consolidated statements of income and cash flows of Rockport Group for such Fiscal Year, prepared in reasonable detail setting forth, with appropriate discussion, the principal assumptions on which such financial plan is based;

(j) Information Regarding Collateral. The Borrower Representative will furnish to the Administrative Agent prompt written notice of (A) any change (i) in any Loan Party's legal name, (ii) in any Loan Party's type of organization, (iii) in any Loan Party's jurisdiction of organization or (iv) in any Loan Party's organizational identification number (to the extent necessary to perfect or maintain the perfection and priority of the Administrative Agent's security interest in the applicable Collateral) and (B) any new location where Inventory with a value (or cost) exceeding $500,000 (or with respect to any such new location which has been established for 90 days or more, $250,000) in the aggregate is located to the extent such location has not previously been identified on Schedule 2(a) or Schedule 2(b) to the Perfection Certificate or a Perfection Certificate Supplement;

(k) Annual Collateral Verification. Together with the delivery of each Compliance Certificate delivered with the financial statements required to be delivered pursuant to Section 5.01(c), the Borrower Representative shall deliver to the Administrative Agent a Perfection Certificate Supplement, either confirming that there has been no change in such information since the date of the Perfection Certificate delivered on the Closing Date or the date of the most recent certificate or most recent report delivered pursuant to this Section or, in the case of intellectual property, the Pledge and Security Agreement and/or identifying such changes.

(l) Other Information. Promptly upon their becoming available and without duplication of any obligations with respect to any such information that is otherwise required to be

delivered under the provisions of any Loan Document, copies of (i) following an initial public offering, all financial statements, reports, notices and proxy statements sent or made available generally by Rockport Group to its public security holders acting in such capacity or by any Subsidiary of Rockport Group to its public security holders other than Rockport Group or another Subsidiary of Rockport Group and (ii) all regular and periodic reports and all registration statements (other than on Form S-8 or similar form) and prospectuses, if any, filed by Rockport Group or any of its Subsidiaries with any securities exchange or with the SEC or any governmental or private regulatory authority;

(m) Borrowing Base Certificate. As soon as available but in any event on or prior to the **thirtieth (30th)** calendar day after the last day of a calendar month ending on or prior to December 31, 2015, and thereafter, within **fifteen (15)** days after the last day of each calendar month (the period ending on such date, a "**Fiscal Month**"), a Borrowing Base Certificate as of the close of business on the last day of the immediately preceding Fiscal Month, together with such supporting information in connection therewith as the Administrative Agent may reasonably request, which may include, (A) Inventory reports by category and location and Loan Party, (B) a reasonably detailed calculation of Eligible Inventory by Loan Party, (C) a reasonably detailed calculation of Eligible Trade Accounts Receivable by Loan Party, (D) a reasonably detailed calculation of Eligible Credit Card Receivables by Loan Party, and (E) a reasonably detailed aging of the Loan Parties' Accounts; provided that (1) during a Weekly Reporting Period, the Borrower Representative shall deliver a Borrowing Base Certificate and such supporting information as is reasonably practicable to provide on a weekly basis by the close of business on Wednesday of each week (or if Wednesday of any week is not a Business Day, on the next succeeding Business Day), as of the close of business on the immediately preceding Friday and (2) any Borrowing Base Certificate delivered other than with respect to a Fiscal Month's end may be based on such estimates by the Borrower Representative as the Borrower Representative may deem necessary; provided, further, that a revised Borrowing Base Certificate based on the Borrowing Base Certificate most recently delivered shall be delivered within five Business Days after the consummation of a sale or other disposition (or merger, consolidation or amalgamation that constitutes a sale or disposition) of any Capital Stock of a Loan Party or disposition of assets included in the then current Borrowing Base, in each case, to any Person other than a Loan Party that results in the disposition of Revolving Collateral with an aggregate value in excess of **$6,000,000**, together with such supporting information as may be reasonably requested by the Administrative Agent; and

(n) Such other certificates, reports and information (financial or otherwise) as the Administrative Agent may reasonably request from time to time in connection with Rockport Group's or its Subsidiaries' financial condition or business.

Documents required to be delivered pursuant to this Section 5.01 may be delivered electronically and if so delivered, shall be deemed to have been delivered on the date (i) on which Rockport Group (x) posts such documents or (y) provides a link thereto on Rockport Group's website on the Internet at the website address listed on Schedule 9.01 (which such Schedule may be updated from time to time); (ii) on which such documents are delivered by the Borrower Representative to the Administrative Agent for posting on the Borrower Representative's behalf on IntraLinks/SyndTrak or another relevant website, if any, to which each Lender and the Administrative Agent have access (whether a commercial, third-party website or whether sponsored by the Administrative Agent); (iii) the date on which executed certificates or other documents are faxed to the Administrative Agent (or electronically mailed to an address provided by the Administrative Agent); provided that, other than with respect to items required to be delivered pursuant to Section 5.01(j) above, the Borrower Representative shall promptly notify (which may be by facsimile or electronic mail) the Administrative Agent of the posting of any such documents on Rockport Group's website and provide to the Administrative Agent by electronic mail electronic versions (*i.e.*, soft copies) of such documents; or (iv) in respect of the items required to be delivered pursuant to Section 5.01(j) above in respect of information filed by Rockport Group or any of its Subsidiaries with

any securities exchange or with the SEC, any securities commission or any governmental or private regulatory authority (other than Form 10-Q Reports and Form 10-K Reports described in Sections 5.01(b) and (c), respectively), such items have been made available on the SEC or any provincial securities commission website.

Notwithstanding the foregoing, the obligations in paragraphs (b) and (c) of this Section 5.01 may be satisfied by furnishing (A) the applicable financial statements of Holdings (or any other Parent Company) or (B) Rockport Group's or Holdings' (or any direct or indirect parent thereof), as applicable, Form 10-K or 10-Q, as applicable, filed with the SEC or any provincial securities commission, in each case, within the time periods specified in such paragraphs; provided that, with respect to each of clauses (A) and (B), (i) to the extent such financial statements relate to any Parent Company, such financial statements shall be accompanied by consolidating information that explains in reasonable detail the differences between the information relating to such Parent Company, on the one hand, and the information relating to Rockport Group on a standalone basis, on the other hand, which consolidating information shall be certified by a Responsible Officer of Rockport Group as having been fairly presented and (ii) to the extent such statements are in lieu of statements required to be provided under Section 5.01(c), such statements shall be accompanied by a report and opinion of an independent registered public accounting firm of nationally recognized standing, which report and opinion shall satisfy the applicable requirements set forth in Section 5.01(c).

Section 5.02 Existence. Except as otherwise permitted under Section 6.08, Rockport Group will, and will cause each of its Subsidiaries to, at all times preserve and keep in full force and effect its existence and all rights and franchises, licenses and permits material to its business except to the extent (other than with respect to the preservation of existence of any Borrower) failure to do so could not reasonably be expected to result in a Material Adverse Effect; provided that neither Rockport Group nor any of its Subsidiaries shall be required to preserve any such existence, right or franchise, licenses and permits if such Person or such Person's board of directors (or similar governing body) shall determine that the preservation thereof is no longer desirable in the conduct of the business of such Person, and that the loss thereof is not disadvantageous in any material respect to such Person or to the Lenders.

Section 5.03 Payment of Taxes. Rockport Group will or will cause each of its Subsidiaries to, pay all Taxes imposed upon it, any of its subsidiaries or any of its properties or assets or in respect of any of its income or businesses or franchises before any penalty or fine accrues thereon; provided that no such Tax need be paid if (a) it is being contested in good faith by appropriate proceedings and adequate reserves or other appropriate provisions, as shall be required in conformity with GAAP (or IFRS, as applicable), shall have been made therefor and, in the case of a Tax or claim which has or may become a Lien against any of the Collateral, such contest proceedings conclusively operate to stay the sale of any portion of the Collateral to satisfy such Tax or claim or (b) failure to pay or discharge the same could not reasonably be expected to result in liabilities in excess of **$2,000,000**.

Section 5.04 Maintenance of Properties. Rockport Group will, and will cause each of its Subsidiaries to, maintain or cause to be maintained in good repair, working order and condition, ordinary wear and tear and casualty and condemnation excepted, all property reasonably necessary to the normal conduct of business of Rockport Group and its Subsidiaries and from time to time will make or cause to be made all needed and appropriate repairs, renewals and replacements thereof except as expressly permitted by this Agreement or where the failure to maintain such properties could not reasonably be expected to have a Material Adverse Effect.

Section 5.05 Insurance. Rockport Group will maintain or cause to be maintained, with financially sound and reputable insurers, such insurance coverage with respect to liabilities, losses or damage in respect of the assets, properties and businesses of Rockport Group and its Subsidiaries (other

than Immaterial Subsidiaries) as may customarily be carried or maintained under similar circumstances by Persons engaged in similar businesses, in each case in such amounts (giving effect to self-insurance), with such deductibles, covering such risks and otherwise on such terms and conditions as shall be customary for such Persons; provided that if at any time Rockport Group or any of its Subsidiaries (other than Immaterial Subsidiaries) does not have such insurance coverage (a) until the second anniversary of the Closing Date, Rockport Group or such Subsidiary shall have **twenty (20)** days in order to procure such insurance coverage and (b) thereafter, with respect to any Revolving Collateral, Rockport Group or such Subsidiary shall have **five (5)** days in order to procure such insurance coverage and (y) with respects to any other matters, Rockport Group or such Subsidiary shall have **thirty (30)** days in order to procure such insurance coverage. Without limiting the generality of the foregoing, Rockport Group will maintain or cause to be maintained (a) flood insurance with respect to each Flood Hazard Property, in each case in compliance with the National Flood Insurance Act of 1968 and the Flood Disaster Protection Act of 1973, each as amended from time to time, and (b) replacement value casualty insurance on the Collateral under such policies of insurance, with such insurance companies, in such amounts, with such deductibles, and covering such risks as are at all times carried or maintained under similar circumstances by Persons engaged in similar businesses. Each such policy of insurance shall (i) to the extent applicable, name the Administrative Agent on behalf of the Lenders as an additional insured thereunder as its interests may appear and (ii) in the case of each casualty insurance policy (including any business interruption insurance policy), contain a loss payable clause or endorsement, reasonably satisfactory in form and substance to the Administrative Agent that names the Administrative Agent, on behalf of the Lenders as the loss payee thereunder and, to the extent available, provide for at least **ten (10)** days' prior written notice for any cancellation.

Section 5.06 Inspections.

(a) Rockport Group will, and will cause each of its Subsidiaries to, permit any authorized representatives designated by the Administrative Agent to visit and inspect any of the properties of Rockport Group and any of its Subsidiaries at which the principal financial records and executive officers of the applicable Person are located, to inspect, copy and take extracts from its financial and accounting records, and to discuss its affairs, finances and accounts with its officers, independent public accountants and chartered professional accountants (provided that the Borrower Representative may, if it so chooses, be present at or participate in any such discussion), all upon reasonable notice, reasonable coordination in and at such reasonable times during normal business hours and as often as may reasonably be requested; provided that (x) only the Administrative Agent on behalf of the Lenders may exercise the rights of the Administrative Agent and the Lenders under this Section 5.06(a), and (y) except as provided in the proviso below in connection with the occurrence and continuance of an Event of Default, (i) the Administrative Agent shall not exercise such rights more often than one time during any calendar year and (ii) only one such time per calendar year shall be at the expense of the Borrowers; provided, further, that when an Event of Default has occurred and is continuing, the Administrative Agent (or any of its representatives or independent contractors) may do any of the foregoing (including conducting an unlimited number of visits and inspections) at the expense of the Borrowers at any time during normal business hours and upon reasonable advance notice; provided that notwithstanding anything to the contrary herein, neither Rockport Group nor any Subsidiary shall be required to disclose, permit the inspection, examination or making of copies or abstracts of, or any discussion of, any document, information, or other matter (i) that constitutes non-financial trade secrets or non-financial proprietary information, (ii) in respect of which disclosure to the Administrative Agent (or any Lender (or their respective representatives or contractors)) is prohibited by applicable law or (iii) that is subject to attorney-client or similar privilege or constitutes attorney work product.

(b) At reasonable times during normal business hours, with reasonable coordination and upon reasonable prior notice that the Administrative Agent requests, independently of or in

connection with the visits and inspections provided for in clause (a) above, Rockport Group and its Subsidiaries will grant access to the Administrative Agent (including employees of Administrative Agent or any consultants, accountants, lawyers and appraisers retained by the Administrative Agent) to such Person's books, records, accounts and Inventory so that the Administrative Agent or an appraiser or consultants retained by the Administrative Agent may conduct an inventory appraisal subject to the terms and conditions set forth below in this clause (b). From time to time the Administrative Agent may conduct (or engage third parties to conduct) or the Loan Parties may conduct such field examinations, verifications and evaluations as the Administrative Agent may deem necessary or appropriate; provided that Administrative Agent (i) may conduct (x) one field examination and one inventory appraisal with respect to the Collateral in each consecutive **12-month** period after the date of this Agreement and (y) one additional field examination and one additional inventory appraisal with respect to the Collateral in each consecutive **12-month** period after the date of this Agreement if at any time during such **12-month** period Excess Availability shall have been less than **20.0%** of the Line Cap for more than **five (5)** consecutive Business Days, and (ii) may conduct such other field examinations and inventory appraisals at any time upon the occurrence and during the continuance of an any Event of Default, in each case, in a form, and from a third party appraiser or consultant, reasonably satisfactory to the Administrative Agent. All such appraisals, field examinations and other verifications and evaluations shall be at the sole expense of the Loan Parties, and the Administrative Agent shall provide the Borrower Representative with a reasonably detailed accounting of all such expenses; provided that the Administrative Agent may conduct (or engage a third party to conduct) one additional field exam or inventory appraisal per fiscal year at its own expense after the termination date of the Transition Services Agreement; provided, further, that the Borrower Representative may request that the Administrative Agent conduct (or engage a third party to conduct) additional field exams or inventory appraisals at Borrowers' expense.

(c) The Loan Parties acknowledge that the Administrative Agent, after exercising its rights of inspection, (x) may prepare and distribute to the Lenders certain Reports pertaining to the Loan Parties' assets for internal use by the Administrative Agent and the Lenders, subject to the provisions of Section 9.13 hereof and (y) shall promptly distribute copies of any final reports from a third party appraiser or third party consultant delivered in connection with any field exam or appraisal to the Lenders.

Section 5.07 Maintenance of Book and Records. Rockport Group will, and will cause its Subsidiaries to, maintain proper books of record and account, in which entries that are full, true and correct in all material respects shall be made of all material financial transactions and matters involving the assets and business of Rockport Group and its Subsidiaries, as the case may be, and permit the preparation of consolidated financial statements in accordance with GAAP to be derived therefrom.

Section 5.08 Compliance with Laws. Rockport Group will comply, and shall cause each of its Subsidiaries to comply, with the requirements of all applicable laws, rules, regulations and orders of any Governmental Authority (including all Environmental Laws, ERISA, *Pension Benefits Act* (Ontario) or any similar legislation of any other jurisdiction, ITA, OFAC, USA PATRIOT Act, Canadian AML Laws, United States Foreign Corrupt Practices Act of 1977, *Corruption of Foreign Public Officials Act* (Canada) or similar applicable laws of any other jurisdiction, as amended), except to the extent the failure of Rockport Group or such Subsidiary to comply could not reasonably be expected to have a Material Adverse Effect.

Section 5.09 Environmental.

(a) Environmental Disclosure. The Borrower Representative will deliver to the Administrative Agent:

(i) as soon as practicable following receipt thereof, copies of all environmental audits, investigations, analyses and reports of any kind or character, whether prepared by personnel of Rockport Group or any of its Subsidiaries or by independent consultants, Governmental Authorities or any other Persons, with respect to significant environmental matters at any Loan Party's real property or with respect to any Environmental Claims, in each case, that might reasonably be expected to have a Material Adverse Effect;

(ii) promptly upon the occurrence thereof, written notice describing in reasonable detail (A) any Release required to be reported by Rockport Group or any of its Subsidiaries to any federal, state, provincial, territorial or local governmental or regulatory agency under any applicable Environmental Laws that could reasonably be expected to have a Material Adverse Effect, (B) any remedial action taken by Borrower Representative or any of its Subsidiaries or any other Persons of which Rockport Group or any of its Subsidiaries has knowledge in response to (1) any Hazardous Materials Activities the existence of which has a reasonable possibility of resulting in one or more Environmental Claims having, individually or in the aggregate, a Material Adverse Effect or (2) any Environmental Claims that, individually or in the aggregate, have a reasonable possibility of resulting in a Material Adverse Effect and (C) any Loan Party's discovery of any occurrence or condition on any real property adjoining or in the vicinity of any Facility that reasonably could be expected to have a Material Adverse Effect;

(iii) as soon as practicable following the sending or receipt thereof by Rockport Group or any of its Subsidiaries, a copy of any and all written communications with respect to (A) any Environmental Claims that, individually or in the aggregate, have a reasonable possibility of giving rise to a Material Adverse Effect, (B) any Release required to be reported by Rockport Group or any of its Subsidiaries to any federal, state, provincial, territorial or local governmental or regulatory agency that reasonably could be expected to have a Material Adverse Effect, and (C) any request made to Rockport Group or any of its Subsidiaries for information from any governmental agency that suggests such agency is investigating whether Rockport Group or any of its Subsidiaries may be potentially responsible for any Hazardous Materials Activity which is reasonably expected to have a Material Adverse Effect;

(iv) prompt written notice describing in reasonable detail (A) any proposed acquisition of stock, assets, or property by Rockport Group or any of its Subsidiaries that could reasonably be expected to expose Rockport Group or any of its Subsidiaries to, or result in, Environmental Claims that could reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect and (B) any proposed action to be taken by Rockport Group or any of its Subsidiaries to modify current operations in a manner that could subject Rockport Group or any of its Subsidiaries to any additional material obligations or requirements under any Environmental Law that are reasonably likely to have a Material Adverse Effect; and

(v) with reasonable promptness, such other documents and information as from time to time may be reasonably requested by the Administrative Agent in relation to any matters disclosed pursuant to this Section 5.09(a).

(b) Hazardous Materials Activities, Etc. Each Loan Party shall promptly take, and shall cause each of its Subsidiaries promptly to take, any and all actions necessary to (i) cure any violation of applicable Environmental Laws by such Loan Party or its Subsidiaries that could reasonably be expected to have a Material Adverse Effect and (ii) make an appropriate response to any Environmental Claim against such Loan Party or any of its Subsidiaries and discharge any obligations it may have to any

Person thereunder, in each case, where failure to do so could reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

Section 5.10 Designation of Subsidiaries. The board of directors (or equivalent governing body) of Rockport Group may at any time designate (or redesignate) any subsidiary (other than any Borrower) as an Unrestricted Subsidiary or any Unrestricted Subsidiary as a Subsidiary; provided that (i) immediately before and after such designation, no Default or Event of Default shall have occurred and be continuing, (ii) after giving effect to such designation, the Borrowers shall be in compliance with Section 6.18 (whether or not then applicable) calculated on a Pro Forma Basis as of the last day of the most recently ended Test Period for which financial statements have been delivered pursuant to Section 5.01 prior to such designation, (iii) no subsidiary may be designated as an Unrestricted Subsidiary if it is a "**Subsidiary**" for the purpose of the Senior Notes or any other Indebtedness in excess of the Threshold Amount, (iv) as of the date of the designation thereof no Unrestricted Subsidiary shall own any Capital Stock in Rockport Group or its Subsidiaries or hold any Indebtedness of, or any Lien on any property of Rockport Group or its Subsidiaries and (v) no holder of any Indebtedness of any Unrestricted Subsidiary shall have any recourse to Rockport Group or its Subsidiaries with respect to such Indebtedness, except as permitted pursuant to this Agreement. The designation of any subsidiary as an Unrestricted Subsidiary shall constitute an Investment by Rockport Group or any other applicable Borrower therein at the date of designation in an amount equal to the portion of the fair market value of the net assets of such Subsidiary attributable to such Borrower's equity interest therein (and such designation shall only be permitted to the extent such Investment is permitted under Section 6.07). The designation of any Unrestricted Subsidiary as a Subsidiary shall constitute the incurrence or making at the time of designation of any Investments, Indebtedness or Liens of such Subsidiary existing at such time; provided that upon a re-designation of such Unrestricted Subsidiary as a Subsidiary, such Borrower shall be deemed to continue to have an Investment in a Subsidiary in an amount (if positive) equal to (a) such Borrower's "Investment" in such Subsidiary at the time of such re-designation, *less* (b) the portion of the fair market value of the net assets of such Subsidiary attributable to such Borrower's equity therein at the time of such re-designation.

Section 5.11 Use of Proceeds. The Borrowers shall use proceeds of the Revolving Loans (a) on the Closing Date, (x) in an aggregate principal amount of up to **$15,000,000** to finance a portion of the Transactions (including working capital and/or purchase price adjustments and the payment of Transaction Costs) and (y) for working capital needs and other general corporate purposes and (b) after the Closing Date, to finance the working capital needs and other general corporate purposes of Rockport Group and its Subsidiaries (including for capital expenditures, acquisitions, working capital and/or purchase price adjustments, the payment of transaction fees and expenses, other Investments, Restricted Payments and any other purpose not prohibited by the terms of the Loan Documents). Letters of Credit may be issued (i) on the Closing Date in the ordinary course of business and to replace or provide credit support for any Existing Letters of Credit and/or to replace cash collateral and (ii) after the Closing Date, for general corporate purposes of Rockport Group and its Subsidiaries. No part of the proceeds of any Loan will be used, whether directly or indirectly, for any purpose that would entail a violation of Regulations T, U or X.

Section 5.12 Additional Collateral; Further Assurances.

(a) Subject to applicable law, Rockport Group and each other Loan Party shall cause each Domestic Subsidiary (other than any Excluded Subsidiary) formed or acquired after the date of this Agreement to become a Loan Party on or prior to the later to occur of (i) the date that is **thirty (30)** days following the date of such formation or acquisition (or such later date as may be acceptable to the Administrative Agent in its discretion) and (ii) the earlier of the date of the required delivery of the Compliance Certificate following the date of such formation or acquisition and the date that is **forty-**

five(45) days after the end of the most recently ended Fiscal Quarter (or such later date as may be acceptable to the Administrative Agent in its discretion), by executing a Joinder Agreement in substantially the form attached as Exhibit E-1 hereto (the "**Joinder Agreement**") and a Security Agreement Joinder Agreement. Upon execution and delivery thereof, each such Person (i) shall automatically become a Subsidiary Guarantor hereunder and thereupon shall have all of the rights, benefits, duties, and obligations in such capacity under the Loan Documents and (ii) will take such actions as may be required in accordance with the terms hereof or of the applicable Collateral Documents to grant Liens to the Administrative Agent, for the benefit of itself and the Lenders and each other Secured Party, in each case to the extent required by the terms hereof and thereof, in any property (subject to the limitations set forth herein and in the other Loan Documents) of such Loan Party which constitutes Collateral, on such terms as may be required pursuant to the terms of the Collateral Documents and in such priority as may be required pursuant to the terms of the Intercreditor Agreement.

(b) Subject to applicable law, Rockport Group and each other Loan Party shall cause each Canadian Subsidiary formed or acquired after the date of this Agreement to become a Canadian Loan Party on or prior to the later to occur of (i) the date that is **thirty (30)** days following the date of such formation or acquisition (or such later date as may be acceptable to the Administrative Agent in its discretion) and (ii) the earlier of the date of the required delivery of the Compliance Certificate following the date of such formation or acquisition and the date that is **forty-five (45)** days after the end of the most recently ended Fiscal Quarter (or such later date as may be acceptable to the Administrative Agent in its discretion), by executing a Joinder Agreement in substantially the form attached as Exhibit E-2 hereto and a Security Agreement Joinder Agreement. Upon execution and delivery thereof, each such Person (i) shall automatically become a Subsidiary Guarantor (and Canadian Loan Party) hereunder and thereupon shall have all of the rights, benefits, duties, and obligations in such capacity under the Loan Documents and (ii) will take such actions as may be required in accordance with the terms hereof or of the applicable Collateral Documents to grant Liens to the Administrative Agent, for the benefit of itself and the Lenders and each other Secured Party, in each case to the extent required by the terms hereof and thereof, in any property (subject to the limitations set forth herein and in the other Loan Documents) of such Loan Party which constitutes Collateral, on such terms as may be required pursuant to the terms of the Collateral Documents.

(c) Rockport Group and each Subsidiary that is a Loan Party will cause all Capital Stock directly owned by them to be subject at all times to a First Priority perfected Lien in favor of the Administrative Agent pursuant to the terms and conditions of the Collateral Documents, subject to the Intercreditor Agreement; provided that, in the case only of voting Capital Stock held by a U.S. Loan Party in a Foreign Subsidiary (other than Canadian Borrower) or in a Foreign Subsidiary Holdco, such pledge shall be limited to **65.0%** of the voting Capital Stock of any first-tier Foreign Subsidiary or Foreign Subsidiary Holdco held by such Loan Party; provided further that, notwithstanding anything herein to the contrary, Rockport Group shall pledge, or cause its Subsidiaries to pledge, **100%** of the Capital Stock of each Borrower.

(d) Without limiting the foregoing, each Loan Party will promptly execute and deliver, or cause to be promptly executed and delivered, to the Administrative Agent such documents, agreements and instruments, and will take or cause to be taken such further actions (including the filing and recording of financing statements, fixture filings, mortgages, deeds of hypothec, deeds of trust and other documents and such other actions or deliveries of the type required by Article 4, as applicable), which the Administrative Agent may, from time to time, reasonably request to carry out the terms and conditions of this Agreement and the other Loan Documents and to ensure perfection and priority of the Liens created or intended to be created by the Collateral Documents (to the extent required herein or therein), all at the expense of the Loan Parties.

(e) Subject to the limitations set forth or referred to in this Section 5.12, if any Material Real Estate Asset is acquired by any Loan Party after the Closing Date (other than any asset constituting Collateral under the Pledge and Security Agreement that becomes subject to the Lien in favor of the Administrative Agent upon acquisition thereof), the Borrower Representative will notify the Administrative Agent and the Lenders thereof, and, if requested by the Administrative Agent or the Required Lenders, within **ninety (90)** days of such request (or such longer period as may be acceptable to the Administrative Agent) the Borrowers will cause such assets to be subjected to a Lien securing the Secured Obligations and will take, and cause each Subsidiary that is a Loan Party to take, such actions as shall be necessary or reasonably requested by the Administrative Agent to grant and perfect such Liens, including actions described in paragraph (c) of this Section, all at the expense of the Loan Parties.

(f) After any Domestic Subsidiary ceases to constitute an Excluded Subsidiary in accordance with the definition thereof, the Borrowers shall cause such Domestic Subsidiary to take all actions required by this Section 5.12 (within the time periods specified herein) as if such Domestic Subsidiary were then formed or acquired.

Notwithstanding anything to the contrary in this Section 5.12 or any other Collateral Document, (a) the Administrative Agent shall not require the taking of a Lien on, or require the perfection of any Lien granted in, those assets as to which (i) the cost, burden, difficulty or consequence of obtaining or perfecting such Lien (including any mortgage, stamp, intangibles or other tax or expenses relating to such Lien) is excessive in relation to the benefit to the Lenders of the security afforded thereby as reasonably determined by the Borrower Representative and the Administrative Agent or (ii) the granting of a Lien in such asset would be prohibited by enforceable anti-assignment provisions of contracts or applicable law or, in the case of assets consisting of licenses, agreements or similar contracts, to the extent the granting of such Lien therein would violate the terms of such license, agreement or similar contract relating to such asset (in each case, after giving effect to the applicable anti-assignment provisions of the UCC, PPSA or other applicable law) or would trigger the termination of any contract pursuant to any "change of control" or similar provision, (b) no Lien on Real Estate Assets shall be required except in respect of Material Real Estate Assets (provided that in any jurisdiction in which a tax is required to be paid in respect of the Mortgage on real property located in such jurisdiction based on the entire amount of the Secured Obligations, the amount secured by such Mortgage shall be limited to the estimated fair market value of the property to be subject to the Mortgage determined in a manner reasonably acceptable to Administrative Agent and the Borrower Representative), (c) no actions shall be required to be taken outside of the United States or Canada in order to create or grant any security interest in any assets located outside of the United States or Canada and no foreign law security or pledge agreements, foreign law mortgages or deeds or foreign intellectual property filings or searches shall be required, (d) Liens required to be granted or perfected pursuant to this Section 5.12 shall be subject to the Intercreditor Agreement and to exceptions and limitations consistent with those set forth in the Collateral Documents, (e) the Loan Parties shall not be required to seek or obtain any landlord lien waiver, estoppel, warehousemen waiver or other collateral access or similar letter or agreement (other than as set forth in this Agreement and subject to the Intercreditor Agreement) and (f) no Loan Party shall be required to (i) grant or take any other action with respect to a security interest in any Excluded Assets (as defined in the Pledge and Security Agreement), (ii) seek any landlord lien waiver, estoppel, warehouseman waiver or other collateral access or similar letter or agreement; provided that the Loan Parties shall use their commercially reasonable efforts to obtain the same for any Specified Location or (iii) perfect the security interest granted under the Loan Documents in (A) assets requiring perfection through control (other than to the extent required under Section 2.21 hereof or with respect to control of Pledged Stock (as defined in the Pledge and Security Agreement) or Pledged Collateral (as defined in the Pledge and Security Agreement) to the extent required by the Pledge and Security Agreement), (B) vehicles or other assets subject to state law certificate of title statutes, (C) commercial tort claims asserting damages of less than

$1,000,000 or (D) letter of credit rights to the extent a security interest therein may not be perfected as supporting obligations by the filing of a UCC-1 or PPSA financing statement on the primary collateral.

Section 5.13 Post-Closing Items. The Loan Parties shall deliver to the Administrative Agent, subject to the Intercreditor Agreement, (w) within **five (5)** days following the Closing Date (or such longer period as the Administrative Agent may agree in its sole discretion), a favorable written opinion of Goodwin Procter LLP, counsel for UK Holdings, (x) within **ten (10)** Business Days following the Closing Date (or such longer period as the Administrative Agent may agree in its sole discretion), (i) a stock certificate representing 65 ordinary shares of Rockport UK Holdings Ltd. and a related stock power, (ii) a stock certificate representing 100 shares of Rockport Canada ULC and a related stock power, (iii) an intercompany note executed by Holdings and its Subsidiaries and (iv) evidence that the intellectual property transfer agreement by and among, among others, NBH and Rockport has been filed with the Canadian Intellectual Property Office, (y) within **ninety (90)** days following the Closing Date (or such longer period as the Administrative Agent may agree in its sole discretion), a loss payable endorsement related to the certificate of insurance delivered on the Closing Date and (z) within **sixty (60)** days of the Closing Date estoppel or no interest letters as requested by the Administrative Agent in respect of any secured creditor of the Seller that has continued perfection of its Liens in the Province of Ontario against the Canadian Borrower.

ARTICLE 6 NEGATIVE COVENANTS

Until the Termination Date has occurred, each of Holdings (solely with respect to Sections 6.15 and 6.16) and the other Loan Parties covenant and agree with the Lenders that:

Section 6.01 Indebtedness. The Borrowers and the Subsidiary Guarantors shall not, nor shall they permit any of their Subsidiaries to, directly or indirectly, create, incur, assume or otherwise become or remain liable with respect to any Indebtedness, except:

(a) the Secured Obligations (including Extended Revolving Loans);

(b) Indebtedness of Rockport Group to any Subsidiary and of any Subsidiary to Rockport Group or any other Subsidiary; provided that in the case of any Indebtedness of a Subsidiary that is not a Loan Party owing to a Loan Party, such Indebtedness shall (x) be permitted as an Investment by Section 6.07(b), (d), (e), (f), (n), (p), (q), (r), (s) or (u) or (y) be of the type described in clause (ii) of the parenthetical under clause (c) of the definition of "Investment"; provided, further, that, subject to Section 5.13, (A) all such Indebtedness shall be evidenced by intercompany promissory notes (or a master intercompany promissory note) and all such notes (or note) owned or held by a Loan Party shall be subject to a First Priority Lien pursuant to the Pledge and Security Agreement and (B) all such Indebtedness of any Loan Party to any Subsidiary that is not a Loan Party must be expressly subordinated to the Obligations of such Loan Party on terms reasonably acceptable to the Administrative Agent;

(c) Indebtedness in respect of the Senior Notes (including any guarantees thereof) of Holdings, Rockport Group and the Subsidiary Guarantors;

(d) Indebtedness arising from agreements providing for indemnification, adjustment of purchase price or similar obligations (including contingent earn-out obligations in an amount not to exceed the greater of **$7,500,000** and **23.5%** of Consolidated EBITDA) incurred in connection with asset sales or other sales or acquisitions permitted hereunder or other purchases of assets or Capital Stock, or Indebtedness arising from guaranties, letters of credit, surety bonds or performance bonds securing the performance of Rockport Group or any such Subsidiary pursuant to such agreements;

(e) Indebtedness of Rockport Group or any Subsidiary which may be deemed to exist pursuant to any performance and completion guaranties or customs, stay, performance, bid, surety, statutory, appeal or other similar obligations incurred in the ordinary course of business or in respect of any letters of credit related thereto;

(f) Indebtedness of Rockport Group or any Subsidiary in respect of commercial credit cards, stored value cards, purchasing cards and treasury management services, including Banking Services Obligations, and other netting services, overdraft protections, automated clearing-house arrangements, employee credit card programs, controlled disbursement, ACH transactions, return items and interstate depository network services and, in each case, similar arrangements and otherwise in connection with Cash management and Deposit Accounts;

(g) (x) guaranties by Rockport Group or any Subsidiary of the obligations of suppliers, customers and licensees in the ordinary course of business and (y) Indebtedness incurred in the ordinary course of business in respect of obligations of Rockport Group or any Subsidiary to pay the deferred purchase price of goods or services or progress payments in connection with such goods and services;

(h) Guarantees by Rockport Group or any Subsidiary of Indebtedness or other obligations of Rockport Group or any Subsidiary with respect to Indebtedness otherwise permitted to be incurred pursuant to this Section 6.01 or obligations not prohibited by this Agreement; provided that in the case of any Guarantees by a Loan Party of the obligations of a non-Loan Party the related Investment is permitted under Section 6.07(b), (d), (e), (f), (n), (p), (q), (r), (s) or (u);

(i) Indebtedness of Rockport Group or any Subsidiary existing on the Closing Date and described on Schedule 6.01(i);

(j) Indebtedness of Subsidiaries that are not Loan Parties to Persons that are not Loan Parties; provided that the aggregate outstanding principal amount of such Indebtedness shall not exceed the greater of **$20,000,000** and **62.0%** of Consolidated EBITDA;

(k) Indebtedness of Rockport Group or any Subsidiary consisting of obligations owing under dealer incentive, supply, license or similar agreements entered into in the ordinary course of business;

(l) Indebtedness of Rockport Group or any Subsidiary consisting of (i) the financing of insurance premiums, (ii) take-or-pay obligations contained in supply arrangements, in each case, in the ordinary course of business and/or (iii) obligations to reacquire assets or inventory in connection with customer financing arrangements in the ordinary course of business;

(m) Indebtedness of Rockport Group or any Subsidiary with respect to Capital Leases and purchase money Indebtedness incurred prior to or within **270** days of the acquisition or lease or completion of construction, repair or replacement of, or improvement to or installation of the assets acquired in connection with the incurrence of such Indebtedness in an aggregate outstanding principal amount not to exceed the greater of (i) **$10,000,000** and (ii) **31.0%** of Consolidated EBITDA;

(n) Indebtedness of a Person that becomes a Subsidiary or Indebtedness assumed in connection with an acquisition permitted hereunder after the Closing Date; provided that (i) if such Indebtedness is Indebtedness of any Loan Party, such Indebtedness is for Capital Leases or purchase money Indebtedness, (ii) such Indebtedness (A) existed at the time such Person became a Subsidiary or the assets subject to such Indebtedness were acquired and (B) was not created in anticipation of such

Person becoming a Subsidiary or of such acquisition, (iii) no Event of Default then exists or would result therefrom, (iv) the Borrowers shall be in compliance with Section 6.18 (whether or not then in effect), calculated on a Pro Forma Basis as of the last day of the most recently ended Test Period for which financial statements have been delivered pursuant to Section 5.01 prior to the date of the incurrence thereof, (v) the Borrower Representative shall have delivered a certificate of a Responsible Officer of the Borrower Representative to the Administrative Agent certifying as to compliance with the requirements of clauses (i), (ii), (iii) and (iv) of this clause (n), and (vi) such Indebtedness shall not have any scheduled or mandatory prepayment (subject to customary exceptions) prior to the Maturity Date;

(o) Indebtedness consisting of unsecured promissory notes issued in form and substance reasonably satisfactory to the Administrative Agent by Rockport Group to any stockholders of any Parent Company or any current or former directors, officers, employees, members of management or consultants of any Parent Company, Rockport Group or any Subsidiary (or their Immediate Family Members) and not guaranteed by Holdings or any of the Subsidiaries solely to finance the purchase or redemption of Capital Stock of any Parent Company permitted by Section 6.05(a);

(p) Rockport Group and its Subsidiaries may become and remain liable for any Indebtedness refinancing, refunding or replacing any Indebtedness permitted under clauses (c), (i), (j), (m), (n), (q), (u), (v) and (y) of this Section 6.01 (in any case, including any refinancing Indebtedness incurred in respect thereof, "**Refinancing Indebtedness**") and any subsequent Refinancing Indebtedness in respect thereof; provided that (i) the principal amount of such Indebtedness does not exceed the principal amount of the Indebtedness being refinanced, refunded or replaced, except (A) by an amount equal to unpaid accrued interest and premiums (including tender premiums) thereon plus other reasonable and customary fees, commissions and expenses (including upfront fees and original issue discount) incurred in connection with such refinancing or replacement, (B) by an amount equal to any existing commitments unutilized thereunder and (C) by additional amounts permitted to be incurred pursuant to this Section 6.01 (so long as such additional Indebtedness meets the other applicable requirements of this definition and, if secured, Section 6.02), (ii) other than in the case of Refinancing Indebtedness with respect to Indebtedness incurred pursuant to clause (i) or (m) of this Section 6.01, such Indebtedness has a final maturity on or later than (and, in the case of revolving Indebtedness, shall not require mandatory commitment reductions, if any, prior to) the final maturity of the Indebtedness being refinanced, refunded or replaced and, other than with respect to revolving Indebtedness, a Weighted Average Life to Maturity equal to or greater than the Weighted Average Life to Maturity of the Indebtedness being refinanced, refunded or replaced, (iii) the terms of such Refinancing Indebtedness (excluding pricing, fees, premiums, rate floors, optional prepayment or redemption terms (and, if applicable, subordination terms)), are not, taken as a whole (as reasonably determined by the Borrower Representative), more favorable to the lenders providing such Indebtedness than those applicable to the Indebtedness being refinanced, refunded or replaced (other than any covenants or any other provisions applicable only to periods after the Latest Maturity Date as of such date (or any covenants or provisions which are on then current market terms for the applicable type of Indebtedness)), (iv) such Indebtedness is secured only by Permitted Liens at the time of such refinancing, refunding or replacement (it being understood that such Indebtedness may go from being secured to being unsecured), (v) such Indebtedness is incurred by the obligor or obligors in respect of the Indebtedness being refinanced, refunded or replaced, except to the extent otherwise permitted pursuant to this Section 6.01 and Section 6.07), (vi) if the Indebtedness being refinanced, refunded or replaced was originally contractually subordinated to the Obligations in right of payment (or the Liens securing such Indebtedness were originally contractually subordinated to the Collateral), such Indebtedness is contractually subordinated to the Obligations in right of payment (or the Liens securing such Indebtedness shall be subordinated to the Collateral) on terms not less favorable, taken as a whole, to the Lenders than those applicable to the Indebtedness (or Liens, as applicable) being refinanced, refunded or replaced, taken as a whole, (vii) except with respect to Refinancing Indebtedness in respect of Indebtedness incurred pursuant to clauses (i), (j) and (m) of this Section 6.01, as of the date of the

incurrence of such Indebtedness and after giving effect thereto, no Event of Default shall exist or have occurred and be continuing, (viii) no such Indebtedness shall refinance Indebtedness of an Unrestricted Subsidiary, and (ix) in the case of Refinancing Indebtedness with respect to Indebtedness incurred pursuant to clauses (j), (m), (u), and (v) (but only to the extent such Refinancing Indebtedness is incurred by non-Loan Parties) of this Section 6.01, the incurrence of such Refinancing Indebtedness shall be without duplication of any amounts outstanding under such clauses;

(q) Indebtedness incurred to finance acquisitions permitted hereunder after the Closing Date; provided that (i) no Event of Default exists at the time of the incurrence of such Indebtedness or would result therefrom, (ii) except with respect to any such Indebtedness owed to the seller of any property or assets acquired in a Permitted Acquisition or other Investment permitted by Section 6.07 in an aggregate amount not to exceed the greater of **$7,500,000** and **23.5%** of Consolidated EBITDA at any one time outstanding], such Indebtedness shall not mature or require any payment of principal, in each case, prior to the date that is **ninety-one (91)** days after the Latest Maturity Date, (iii) the Borrowers shall be in compliance with Section 6.18 (whether or not then in effect), calculated on a Pro Forma Basis as of the last day of the most recently ended Test Period for which financial statements have been delivered pursuant to Section 5.01 prior to the date of the incurrence thereof and (iv) the Borrower Representative shall have delivered a certificate of a Responsible Officer of the Borrower Representative to the Administrative Agent certifying as to compliance with the requirements of subclauses (i), (ii) and (iii) of this clause (q);

(r) Indebtedness of Foreign Subsidiaries; provided that the aggregate outstanding principal amount of such Indebtedness shall not exceed the greater of **$20,000,000** and **62.0%** of Consolidated EBITDA;

(s) Indebtedness of Rockport Group or any Subsidiary under any Derivative Transaction not entered into for speculative purposes;

(t) **[Reserved]**;

(u) Indebtedness of Rockport Group or any other Loan Party in an aggregate outstanding principal amount not to exceed the greater of **$15,000,000** and **46.5%** of Consolidated EBITDA;

(v) Indebtedness of Rockport Group or any Subsidiary so long as the Payment Conditions are satisfied calculated on a Pro Forma Basis as of the last day of the most recently ended Test Period for which financial statements have been delivered pursuant to Section 5.01 prior to the date of the incurrence thereof; provided that except in the case of any such Indebtedness secured by Permitted Liens, no such Indebtedness shall mature or require any scheduled amortization or scheduled payments of principal or shall be subject to any mandatory redemption, repurchase, repayment or sinking fund obligation (other than "applicable high yield discount obligation" (AHYDO) "catch-up" payments, customary offers to repurchase on a change of control, asset sale or casualty event and customary acceleration rights after an event of default), in each case, prior to the date that is **ninety-one (91)** days after the Latest Maturity Date as of the date of the incurrence thereof; provided, further, that the aggregate outstanding principal amount of any such Indebtedness of Subsidiaries that are not Loan Parties incurred under this clause (v) shall not exceed the greater of **$10,000,000** and **31.0%** of Consolidated EBITDA;

(w) **[Reserved]**;

(x) **[Reserved]**;

(y) Indebtedness (including obligations in respect of letters of credit or bank guarantees or similar instruments with respect to such Indebtedness) incurred by Rockport Group or any Subsidiary in the ordinary course of business in respect of workers compensation claims, unemployment insurance and employment insurance (including premiums related thereto), other types of social security, pension obligations, vacation pay, health, disability or other employee benefits;

(z) **[Reserved]**;

(aa) Indebtedness of Rockport Group or any Subsidiary representing (i) deferred compensation to current or former directors, officers, employees, members of management and consultants of any Parent Company, Rockport Group or any Subsidiary in the ordinary course of business and (ii) deferred compensation or other similar arrangements in connection with the Transactions, any Permitted Acquisition or any other Investment permitted hereby;

(bb) Indebtedness of Rockport Group or any Subsidiary in respect of any letter of credit issued in favor of any Issuing Bank or Swingline Lender to support any Defaulting Lender's participation in Letters of Credit issued, or Swingline Loans made hereunder;

(cc) **[Reserved]**;

(dd) unfunded pension fund and other employee benefit plan obligations and liabilities incurred by Rockport Group or any Subsidiary in the ordinary course of business to the extent that such unfunded amounts would not otherwise cause an Event of Default under Section 7.01(j);

(ee) without duplication of any other Indebtedness, all premiums (if any), interest (including post-petition interest and payment in kind interest), accretion or amortization of original issue discount, fees, expenses and charges with respect to Indebtedness permitted hereunder;

(ff) Indebtedness in an amount equal to any Cash equity contribution received by the applicable Borrower to the extent not utilized to increase other covenant exceptions in this Article 6 and excluding, for avoidance of doubt, any Cure Amount;

(gg) the Seller Notes; provided that such Seller Notes shall not have any scheduled prepayment (subject to customary exceptions) prior to the Maturity Date; provided, further, that the Seller Notes shall be subject to the Seller Note Subordination Agreement;

(hh) Indebtedness of a Receivables Subsidiary under a Receivables Facility;

(ii) **[Reserved]**; and

(jj) Indebtedness of Holdings or any of its Subsidiaries arising from an agreement providing for the Guarantee or indemnification of operating leases of any Subsidiary.

Section 6.02 Liens. The Borrowers and the Subsidiary Guarantors shall not, nor shall they permit any of their Subsidiaries to, create, incur, assume or permit or suffer to exist any Lien on or with respect to any property or asset of any kind (including any document or instrument in respect of goods or accounts receivable) owned by it, whether now owned or hereafter acquired, or any income or profits therefrom, except:

(a) Liens created pursuant to the Loan Documents securing the Secured Obligations;

(b) Liens for Taxes, assessments or other governmental charges or levies which are not overdue or, if overdue, obligations (i) with respect to such Taxes that are not at such time required to be paid pursuant to Section 5.03 or (ii) which are being contested in accordance with Section 5.03;

(c) statutory Liens of landlords, banks (and rights of set-off), carriers, warehousemen, mechanics, repairmen, workmen and materialmen, and other Liens imposed by law (excluding any such Lien imposed pursuant to Section 401(a)(29) or 412(n) of the Code, by ERISA or the *Pension Benefits Act* (Ontario) or similar legislation of any other jurisdiction (including statutory liens for Prior Claims)), in each case incurred in the ordinary course of business (i) for amounts not yet overdue by more than **thirty (30)** days, (ii) for amounts that are overdue by more than **thirty (30)** days and that are being contested in good faith by appropriate proceedings, so long as such reserves or other appropriate provisions, if any, as shall be required by GAAP shall have been made for any such contested amounts or (iii) with respect to which the failure to make payment could not reasonably be expected to have a Material Adverse Effect;

(d) Liens incurred (i) in the ordinary course of business in connection with workers' compensation, unemployment insurance, employment insurance and other types of social security laws and regulations, (ii) in the ordinary course of business to secure the performance of tenders, statutory obligations, surety, stay, customs and appeal bonds, bids, leases, government contracts, trade contracts, performance and return-of-money bonds and other similar obligations (exclusive of obligations for the payment of borrowed money), (iii) pursuant to pledges and deposits of Cash or Cash Equivalents in the ordinary course of business securing liability for reimbursement or indemnification obligations of insurance carriers providing property, casualty or liability insurance to Holdings, Rockport Group and its Subsidiaries and (iv) to secure obligations in respect of letters of credit or bank guarantees posted with respect to the items described in clauses (i)-(iii) above;

(e) easements, rights-of-way, restrictions, encroachments, and other minor defects or irregularities in title, in each case which do not, in the aggregate, materially interfere with the ordinary conduct of the business of Rockport Group and its Subsidiaries, taken as a whole, or the use of the affected property for its intended purpose;

(f) any (i) interest or title of a lessor or sub-lessor under any lease of real estate permitted hereunder, (ii) landlord lien permitted by the terms of any lease, (iii) restriction or encumbrance to which the interest or title of such lessor or sub-lessor may be subject or (iv) subordination of the interest of the lessee or sub-lessee under such lease to any restriction or encumbrance referred to in the preceding clause (iii);

(g) Liens solely on any Cash earnest money deposits made by Rockport Group or any of its Subsidiaries in connection with any letter of intent or purchase agreement with respect to any Investment permitted hereunder;

(h) purported Liens evidenced by the filing of precautionary UCC financing statements relating solely to operating leases or consignment or bailee arrangements entered into in the ordinary course of business;

(i) Liens in favor of customs and revenue authorities arising as a matter of law to secure payment of customs duties in connection with the importation of goods;

(j) Liens in connection with any zoning, building or similar law or right reserved to or vested in any governmental office or agency to control or regulate the use of any or dimensions of real property or the structure thereon;

(k) Liens securing Indebtedness permitted pursuant to Section 6.01(p) (solely with respect to the permitted refinancing of Indebtedness permitted pursuant to Sections 6.01(m), (n), (q), (u), (v), and (y)); provided that (i) any such Lien does not extend to any asset not covered by the Lien securing the Indebtedness that is refinanced (other than the proceeds and products thereof, accessions thereto and improvements thereon) or as otherwise permitted under this Section 6.02 with respect to such Lien and (ii) if the Indebtedness being refinanced was subject to intercreditor arrangements, then any refinancing Indebtedness in respect thereof shall be subject to intercreditor arrangements not less favorable, taken as a whole, than the intercreditor arrangements governing the Indebtedness that is refinanced or shall be otherwise reasonably acceptable to the Administrative Agent;

(l) Liens described on Schedule 6.02 and any modifications, replacements, refinancings, renewals or extensions thereof; provided that (i) no such Lien extends to any additional property other than (A) after-acquired property that is affixed or incorporated into the property covered by such Lien or financed by Indebtedness permitted under Section 6.01 and (B) proceeds and products thereof, accessions thereto and improvements thereon (it being understood that individual financings of the type permitted under Section 6.01(m) provided by any lender may be cross-collateralized to other financings of such type provided by such lender or its affiliates) and (ii) the modification, replacement, refinancing, renewal or extension of the obligations secured or benefited by such Liens, if constituting Indebtedness, is permitted by Section 6.01;

(m) **[Reserved]**;

(n) Liens securing Indebtedness permitted pursuant to Section 6.01(m); provided that any such Lien shall encumber only the asset acquired with the proceeds of such Indebtedness and proceeds and products thereof, accessions thereto and improvements thereon (it being understood that individual financings of the type permitted under Section 6.01(m) provided by any lender may be cross-collateralized to other financings of such type provided by such lender or its affiliates);

(o) (i) Liens securing Indebtedness permitted pursuant to Section 6.01(n) on assets acquired or on the Capital Stock and assets of the relevant newly acquired Subsidiary; provided that such Lien (x) does not extend to or cover any other assets (other than the proceeds or products thereof, accessions or additions thereto and improvements thereon) and (y) was not created in contemplation of the applicable acquisition of assets or Capital Stock, and (ii) Liens securing Indebtedness incurred pursuant to Section 6.01(q); provided that, with respect to each of the foregoing clause (i) and (ii), in the case of any Liens on the Revolving Collateral, such Indebtedness shall be either secured on a *pari passu* basis with the Senior Notes and be subject to the Intercreditor Agreement or secured on a junior lien basis with respect to the Secured Obligations pursuant to an intercreditor arrangement reasonably satisfactory to the Administrative Agent;

(p) Liens that are contractual rights of setoff (i) relating to the establishment of depositary relations with banks not given in connection with the issuance of Indebtedness, (ii) relating to pooled deposit or sweep accounts of Rockport Group or any Subsidiary to permit satisfaction of overdraft or similar obligations incurred in the ordinary course of business of Rockport Group or any Subsidiary, (iii) relating to purchase orders and other agreements entered into with customers of Rockport Group or any Subsidiary in the ordinary course of business, (iv) attaching to commodity trading or other brokerage accounts incurred in the ordinary course of business and (v) encumbering reasonable customary initial deposits and margin deposits;

(q) Liens on assets of Foreign Subsidiaries and other Subsidiaries that are not Loan Parties (including Capital Stock owned by such Persons) securing Indebtedness of non-Loan Parties permitted pursuant to Section 6.01(j) and (r);

(r) Liens securing obligations (other than obligations representing Indebtedness for borrowed money) under operating, reciprocal easement or similar agreements entered into in the ordinary course of business of Rockport Group and its Subsidiaries;

(s) Liens disclosed in the title insurance policies delivered pursuant to Sections 5.12 and 5.13 with respect to any Mortgaged Property and any replacement, extension or renewal of any such Lien; provided that such replacement, extension or renewal Lien shall not cover any property other than the property that was subject to such Lien prior to such replacement, extension or renewal;

(t) Liens securing Indebtedness incurred pursuant to Sections 6.01(c) and (y); provided that, in the case of any Liens on Revolving Collateral pursuant to Section 6.01(c), such Indebtedness shall either be secured on a *pari passu* basis with the Senior Notes and subject to the Intercreditor Agreement or secured on a junior lien basis with respect to the Revolving Collateral pursuant to intercreditor arrangements reasonably satisfactory to the Administrative Agent;

(u) other Liens on assets securing Indebtedness or other obligations in an aggregate principal amount at any time outstanding not to exceed the greater of (i) **$15,000,000** and (ii) **46.5%** of Consolidated EBITDA, as of the last day of the most recently ended Test Period for which financial statements have been delivered pursuant to Section 5.01 prior to the date of the applicable incurrence; provided that, in the case of any Liens on Revolving Collateral, such Indebtedness shall be either secured on a *pari passu* basis with the Senior Notes and subject to the Intercreditor Agreement or secured on a junior lien basis with respect to the Revolving Collateral pursuant to intercreditor arrangements reasonably satisfactory to the Administrative Agent;

(v) Liens on assets securing judgments, awards, attachments or decrees not constituting an Event of Default under Section 7.01(h);

(w) leases, licenses, subleases or sublicenses granted to others in the ordinary course of business which do not (i) interfere in any material respect with the business of Holdings, Rockport Group and its Subsidiaries (other than an Immaterial Subsidiary) or (ii) secure any Indebtedness;

(x) Liens on Securities that are the subject of repurchase agreements constituting Investments permitted under Section 6.07 arising out of such repurchase transaction;

(y) Liens securing obligations of Persons who are not Loan Parties in respect letters of credit permitted under Sections 6.01(e), (y) and (bb);

(z) Liens arising (i) out of conditional sale, title retention, consignment or similar arrangements for the sale of any assets or property in the ordinary course of business and permitted by this Agreement or (ii) by operation of law under Article 2 of the UCC or applicable provisions of the PPSA;

(aa) Liens in favor of any Borrower or the Loan Guarantors securing intercompany Indebtedness permitted under Section 6.01;

(bb) Liens on insurance policies and the proceeds thereof securing the financing of the premiums with respect thereto;

(cc) if no Letters of Credit are available hereunder, and solely with the consent of the Administrative Agent (not to be unreasonably withheld), Liens on specific items of inventory or other goods and the proceeds thereof owned by an Excluded Subsidiary securing such Excluded Subsidiary's

obligations in respect of documentary letters of credit or banker's acceptances issued or created for the account of such Person to facilitate the purchase, shipment or storage of such inventory or goods;

(dd) Liens on deposits securing (i) obligations under Hedge Agreements in connection with any Derivative Transactions of the type described in Section 6.01(s) and (ii) obligations of the type described in Section 6.01(f);

(ee) (i) Liens on Capital Stock of joint ventures or Unrestricted Subsidiaries securing capital contributions to or obligations of such Persons and (ii) customary rights of first refusal and tag, drag and similar rights in joint venture agreements;

(ff) Liens securing Indebtedness permitted pursuant to Section 6.01(v); and

(gg) Liens on assets of a Receivables Subsidiary incurred pursuant to Receivables Facility permitted to be incurred hereunder.

Section 6.03 No Further Negative Pledges. Neither Rockport Group nor any of its Subsidiaries shall enter into any agreement prohibiting the creation or assumption of any Lien upon any of its properties or assets, whether now owned or hereafter acquired, for the benefit of the Secured Parties with respect to the Obligations, except with respect to specific property to be sold pursuant to an asset sale permitted by Section 6.08;

(a) restrictions contained in any agreement with respect to Indebtedness permitted by Section 6.01 that is secured by a Permitted Lien, but only if such restrictions apply only to the Person or Persons obligated under such Indebtedness and its or their Subsidiaries or the property or assets securing such Indebtedness;

(b) restrictions contained in the Note Purchase Agreement and the documentation governing Indebtedness permitted by clauses (q), (u), and (v) of Section 6.01 (and clause (p) of Section 6.01 to the extent relating to any refinancing, refunding or replacement of Indebtedness incurred in reliance on clauses (q), (u), and (v) of Section 6.01);

(c) restrictions by reason of customary provisions restricting assignments, subletting or other transfers (including the granting of any Lien) contained in leases, subleases, licenses, sublicenses and other similar agreements entered into in the ordinary course of business (provided that such restrictions are limited to the relevant leases, subleases, licenses, sublicenses or other similar agreements and/or the property or assets secured by such Liens or the property or assets subject to such leases, subleases, licenses, sublicenses or other similar agreements, as the case may be);

(d) Permitted Liens and restrictions in the agreements relating thereto that limit the right of Rockport Group or any of its Subsidiaries to dispose of, transfer or encumber the assets subject to such Liens;

(e) provisions limiting the disposition or distribution of assets or property in joint venture agreements, sale-leaseback agreements, stock sale agreements and other similar agreements, which limitation is applicable only to the assets that are the subject of such agreements (or the Persons the stock of which is the subject of such agreement);

(f) any encumbrance or restriction assumed in connection with an acquisition of property or the Capital Stock of any Person, so long as such encumbrance or restriction relates solely to

the property so acquired (or to the Person or Persons (and its or their subsidiaries) bound thereby) and was not created in connection with or in anticipation of such acquisition;

(g) restrictions imposed by customary provisions in partnership agreements, limited liability company organizational governance documents, joint venture agreements and other similar agreements that restrict the transfer of the assets of, or ownership interests in, such partnership, limited liability company, joint venture or similar Person;

(h) restrictions on Cash or other deposits imposed by customers under contracts entered into in the ordinary course of business;

(i) restrictions set forth in documents which exist on the Closing Date;

(j) **[Reserved]**;

(k) restrictions contained in documents governing Indebtedness and Liens on Capital Stock permitted hereunder of any Subsidiary that is not a Subsidiary Guarantor;

(l) **[Reserved]**; and

(m) other restrictions or encumbrances imposed by any amendments, modifications, restatements, renewals, increases, supplements, refundings, replacements or refinancings of the contracts, instruments or obligations referred to in clauses (a) through (l) above; provided that such amendments, modifications, restatements, renewals, increases, supplements, refundings, replacements or refinancings are, in the good faith judgment of the Borrower, no more restrictive with respect to such encumbrances and other restrictions, taken as a whole, than those prior to such amendment, modification, restatement, renewal, increase, supplement, refunding, replacement or refinancing.

Section 6.04 [**Reserved**].

Section 6.05 Restricted Payments; Certain Payments of Indebtedness.

(a) No Borrower shall pay or make, directly or indirectly, any Restricted Payment, except that:

(i) Rockport Group and its Subsidiaries may make Restricted Payments to the extent necessary to permit any Parent Company:

(A) to pay general administrative costs and expenses (including corporate overhead, legal or similar expenses and customary wages, salary, bonus and other benefits payable to directors, officers, employees, members of management, consultants and/or independent contractors of any Parent Company), franchise fees, franchise Taxes and similar fees, Taxes and expenses required to maintain the organizational existence of such Parent Company, in each case, which are reasonable and customary and incurred in the ordinary course of business, plus any reasonable and customary indemnification claims made by current or former directors, officers, members of management, employees or consultants of any Parent Company, in each case, to the extent attributable to the ownership or operations of any of Holdings, any Borrower and/or its Subsidiaries;

(B) to pay the Tax Distributions;

(C) to pay audit and other accounting and reporting expenses at such Parent Company to the extent relating to the ownership or operations of any Borrower and/or its Subsidiaries;

(D) for the payment of insurance premiums to the extent relating to the ownership or operations of any Borrower and/or its Subsidiaries;

(E) pay fees and expenses related to debt or equity offerings, investments or acquisitions permitted by this Agreement (whether or not consummated);

(F) to pay the consideration to finance any Investment permitted under Section 6.07 (provided that (x) such Restricted Payments under this clause (a)(i)(F) shall be made substantially concurrently with the closing of such Investment and (y) such Parent Company shall, promptly following the closing thereof, cause all such property acquired to be contributed to Rockport Group or one of its Subsidiaries, or the merger or amalgamation of the Person formed or acquired into Rockport Group or one of its Subsidiaries, in order to consummate such Investment in a manner that causes such Investment to comply with the applicable requirements of Section 6.07 as if undertaken as a direct Investment by Rockport Group or such Subsidiary);

(G) to pay customary salary, bonus, severance and other benefits payable to current or former directors, officers, members of management, employees or consultants (or Immediate Family Member thereof) of any Parent Company to the extent such salary, bonuses, severance and other benefits are directly attributable and reasonably allocated to the operations of Rockport Group and/or its Subsidiaries, in each case, so long as such Parent Company applies the amount of any such Restricted Payment for such purpose;

(H) to pay any indemnities, fees or other expenses pursuant to a Sponsor Management Agreement permitted under Section 6.11(f); and

(I) to make any payments related to the "Subsequent Closings" (as defined in the Master Purchase Agreement) pursuant to a Management Agreement or the Master Purchase Agreement;

(ii) Rockport Group may pay (or make Restricted Payments to allow any Parent Company to pay) for the repurchase, redemption, retirement or other acquisition or retirement for value of Capital Stock of any Parent Company, Rockport Group or any Subsidiary held by any future, present or former employee, director, member of management, officer, manager or consultant (or any Affiliate or Immediate Family Member thereof) of any Parent Company, Rockport Group or any Subsidiary:

(A) in accordance with the terms of notes issued pursuant to Section 6.01(o), so long as the aggregate amount of all cash payments made in respect of such notes, together with the aggregate amount of Restricted Payments made pursuant to clause (D) of this clause (ii), does not exceed the greater of **$5,000,000** and **15.0%** of Consolidated EBITDA in any Fiscal Year, which, if not used in any Fiscal Year, may be carried forward to the next subsequent Fiscal Year;

(B) with the proceeds of any sale or issuance of the Capital Stock of any Parent Company;

(C) with the net proceeds of any key-man life insurance policies received during such fiscal year; or

(D) with Cash and Cash Equivalents in an amount not to exceed, together with the aggregate amount of all cash payments made in respect of notes issued pursuant to Section 6.01(o), the greater of **$5,000,000** and **15.0%** of Consolidated EBITDA in any Fiscal Year, which, if not used in any Fiscal Year, may be carried forward to the next subsequent Fiscal Year;

(iii) Rockport Group may make additional Restricted Payments; provided that both before and after giving effect to any Restricted Payment made in reliance on this clause (iii), the Payment Conditions are satisfied;

(iv) Rockport Group may make Restricted Payments (i) to any Parent Company to enable such Parent Company to make Cash payments in lieu of the issuance of fractional shares in connection with the exercise of warrants, options or other securities convertible into or exchangeable for Capital Stock of such Parent Company or (ii) consisting of (A) payments made in respect of withholding Taxes payable on the exercise of warrants, options or other securities convertible into or exchangeable for Capital Stock of Rockport Group, any Subsidiary, or any Parent Company (the principal business of which is to own, directly or indirectly, Capital Stock of Rockport Group) by any future, present or former officers, directors, employees, members of management or consultants of Rockport Group, Subsidiary or Parent Company (including Immediate Family Members thereof) and/or (B) repurchases of Capital Stock in consideration of the payments described in clause (A), including demand repurchases in connection with the exercise of stock options;

(v) Rockport Group may repurchase Capital Stock upon exercise of options or warrants or other securities convertible into or exchangeable for Capital Stock if such Capital Stock represents all or a portion of the exercise price of such options or warrants or other securities as part of a "cashless" exercise;

(vi) Rockport Group may make Restricted Payments the proceeds of which are applied (A) on the Closing Date, solely to effect the consummation of the Transactions and (B) on and after the Closing Date, to satisfy any payment obligations owing under the Master Purchase Agreement (as in effect on the date hereof);

(vii) so long as no Event of Default shall have occurred and be continuing at the time of the declaration thereof, following the consummation of an IPO, Rockport Group may (or may make Restricted Payments to any Parent Company to enable it to) make Restricted Payments with respect to any Capital Stock in an amount of up to **6.0%** *per annum* of the net Cash proceeds received by or contributed to Rockport Group from any such IPO;

(viii) Rockport Group may make Restricted Payments to (i) redeem, repurchase, retire or otherwise acquire any (A) Capital Stock ("**Treasury Capital Stock**") of Rockport Group or any Subsidiary or (B) Capital Stock of any Parent Company, in the case of each of subclauses (A) and (B), in exchange for, or out of the proceeds of the substantially concurrent sale (other than to Rockport Group or a Subsidiary) of, Qualified Capital Stock of Rockport Group or any Parent Company to the extent contributed as a common equity contribution to the capital of Rockport Group or any Subsidiary (in each case, other than Disqualified Capital Stock) ("**Refunding Capital Stock**") and (ii) declare and pay dividends on

the Treasury Capital Stock out of the proceeds of the substantially concurrent sale (other than to Rockport Group or a Subsidiary) of the Refunding Capital Stock;

(ix) to the extent constituting a Restricted Payment, Rockport Group may consummate any transaction permitted by Section 6.07 (other than Sections 6.07(j) and (t)), Section 6.08 (other than Section 6.08(g)) and Section 6.11 (other than Section 6.11(d)); and

(x) so long as no Default or Event of Default shall have occurred and be continuing at the time of the declaration thereof, Rockport Group may make additional Restricted Payments in an aggregate amount not to exceed (A) the greater of **$5,000,000** and **15.0%** of Consolidated EBITDA, *minus* (B) the amount of any payments or other distributions made pursuant to clause (B) of Section 6.05(b)(viii).

(b) The Borrowers and the Subsidiary Guarantors shall not, nor shall they permit any Subsidiary to, make, directly or indirectly, any cash payment or other distribution (whether in Cash, securities or other property) on or in respect of principal of or interest on the Senior Notes (or Refinancing Indebtedness in respect thereof) or any Junior Indebtedness, including any sinking fund or similar deposit, on account of the purchase, redemption, retirement, acquisition, cancellation or termination of the Senior Notes (or any Refinancing Indebtedness in respect thereof) or any Junior Indebtedness (collectively, "**Restricted Debt Payments**"), except:

(i) the purchase, defeasance, redemption, repurchase or other acquisition or retirement of the Senior Notes (or Refinancing Indebtedness in respect thereof) or Junior Indebtedness made by exchange for, or out of the proceeds of Refinancing Indebtedness permitted by Section 6.01;

(ii) payments as part of an "applicable high yield discount obligation" catch-up payment, so long as no Event of Default shall have occurred and be continuing;

(iii) payments of regularly scheduled interest and fees, expenses and indemnification obligations as and when due in respect of any Indebtedness (other than payments with respect to Subordinated Indebtedness prohibited by the subordination provisions thereof);

(iv) payments with respect to intercompany Indebtedness permitted under Section 6.01, subject to the subordination provisions applicable thereto;

(v) **[Reserved]**;

(vi) (A) payments of any Senior Notes and/or any Junior Indebtedness in exchange for, or with proceeds of any issuance of Qualified Capital Stock of any Parent Company, Rockport Group or any Subsidiary, and/or capital contribution in respect of Qualified Capital Stock of Rockport Group, (B) payments of Indebtedness by the conversion of all or any portion thereof into Qualified Capital Stock of any Parent Company, Rockport Group or any Subsidiary and (C) payments of interest in respect of Indebtedness in the form of payment-in-kind interest with respect to such Indebtedness permitted under Section 6.01;

(vii) the Borrowers may make additional Restricted Debt Payments; provided that both before and after giving effect to any Restricted Debt Payment made in reliance on this clause (vii), the Payment Conditions are satisfied; and

(viii) so long as no Event of Default shall have occurred and be continuing, additional Restricted Debt Payments in an aggregate principal amount not to exceed (A) the greater of **$5,000,000** and **15.0%** of Consolidated EBITDA, *minus* (B) the amount of Restricted Payments made pursuant to clause (A) of Section 6.05(a)(x).

Section 6.06 Restrictions on Subsidiary Distributions. Except as provided herein or in any other Loan Document, in the Note Purchase Agreement or in agreements with respect to refinancings, renewals or replacements of such Indebtedness permitted by Section 6.01, so long as such refinancing, renewal or replacement does not expand the scope of such contractual obligation, Rockport Group and the Subsidiary Guarantors shall not, nor shall they permit any of their Subsidiaries to create, or otherwise cause or suffer to exist or become effective any consensual encumbrance or restriction of any kind on the ability of any Subsidiary of Rockport Group to:

(a) pay dividends or make any other distributions on any of such Subsidiary's Capital Stock owned by Rockport Group or any other Subsidiary;

(b) pay, repay or prepay any Indebtedness owed by such Subsidiary to Rockport Group or any other Subsidiary;

(c) make loans or advances to Rockport Group or any other Subsidiary of Rockport Group; or

(d) sell, lease or transfer any of its property or assets to Rockport Group or any other Subsidiary;

in each case, other than any encumbrance and/or restriction:

(i) in any agreement evidencing (x) Indebtedness of a Subsidiary other than a Loan Party permitted by Section 6.01, (y) Indebtedness permitted by Section 6.01 that is secured by a Permitted Lien if such encumbrance or restriction applies only to the Person obligated under such Indebtedness and its Subsidiaries or the property or assets intended to secure such Indebtedness and (z) Indebtedness permitted pursuant to clauses (m), (p) (as it relates to Indebtedness in respect of clauses (q), (u), (v) and (y) of Section 6.01), (q), (u), (v) and (y) of Section 6.01;

(ii) by reason of customary provisions restricting assignments, subletting or other transfers contained in leases, subleases, licenses, sublicenses, joint venture agreements and similar agreements entered into in the ordinary course of business;

(iii) that are or were created by virtue of any Lien granted upon, transfer of, agreement to transfer or grant of, any option or right with respect to any property, assets or Capital Stock not otherwise prohibited under this Agreement;

(iv) assumed in connection with an acquisition of property or the Capital Stock of any Person, so long as such encumbrance or restriction relates solely to the Person and its Subsidiaries (including the Capital Stock of such Person) and/or property so acquired and was not created in connection with or in anticipation of such acquisition;

(v) in any agreement for the sale or other disposition of a Subsidiary that restricts the payment of dividends or other distributions or the making of loans or advances by that Subsidiary pending the sale or other disposition;

(vi) in provisions in agreements or instruments which prohibit the payment of dividends or the making of other distributions with respect to any class of Capital Stock of a Person other than on a *pro rata* basis;

(vii) imposed by customary provisions in partnership agreements, limited liability company organizational governance documents, joint venture agreements and other similar agreements that restrict the transfer of ownership interests in such partnership, limited liability company, joint venture or similar Person;

(viii) on Cash or other deposits imposed by customers under contracts entered into in the ordinary course of business;

(ix) set forth in documents which exist on the Closing Date;

(x) customary net worth or similar provisions contained in real property leases entered into by Rockport Group or any Subsidiary so long as Rockport Group or such Subsidiary has determined in good faith that such net worth or similar provisions could not reasonably be expected to impair the ability of Rockport Group or such Subsidiary to meet its ongoing obligations;

(xi) **[Reserved]**; and

(xii) restrictions of the types referred to in clauses (a)-(d) above imposed by any amendments, modifications, restatements, renewals, increases, supplements, refundings, replacements or refinancings of the contracts, instruments or obligations referred to in clauses (i)-(x) above; provided that such amendments, modifications, restatements, renewals, increases, supplements, refundings, replacements or refinancings are, in the good faith judgment of the Borrower Representative, no more restrictive with respect to such restrictions taken as a whole than those in existence prior to such amendment, modification, restatement, renewal, increase, supplement, refunding, replacement or refinancing.

Section 6.07 Investments. The Borrowers and the Subsidiary Guarantors shall not, nor shall they permit any of their Subsidiaries to make or own any Investment in any other Person except:

(a) Cash or Investments that were Cash Equivalents at the time made;

(b) (i) Investments existing on the Closing Date in any Subsidiary listed in the Perfection Certificate, (ii) Investments made after the Closing Date in Subsidiaries that are Loan Parties and (iii) equity Investments by a Loan Party in a non-Loan Party consisting of the contribution or disposition of Capital Stock of any Person which is not a Loan Party;

(c) Investments (i) constituting deposits, prepayments and other credits to suppliers, (ii) made in connection with obtaining, maintaining or renewing client and customer contracts and (iii) in the form of advances made to distributors, suppliers, licensors and licensees, in each case, in the ordinary course of business or, in the case of clause (iii), to the extent necessary to maintain the ordinary course of supplies to Rockport Group or any Subsidiary;

(d) Investments (i) by any Loan Party in any other Loan Party, (ii) by any Subsidiary that is not a Loan Party in any other Subsidiary that is not a Loan Party and (iii) by Rockport Group or any Subsidiary Guarantor, directly or indirectly, in any Subsidiary that is not a Loan Party so long as, in

the case of this clause (iii), the aggregate amount of any such Investments outstanding at any time does not exceed the greater of **$20,000,000** and **62.0%** of Consolidated EBITDA;

(e) (i) Permitted Acquisitions and (ii) Investments in any Subsidiary that is not a Loan Party in an amount required to permit such Subsidiary to consummate a Permitted Acquisition;

(f) Investments existing on, or contractually committed to as of, the Closing Date and described on Schedule 6.07 and any modification, replacement, renewal or extension thereof so long as such modification, renewal or extension thereof does not increase the amount of such Investment except by the terms thereof or as otherwise permitted by this Section 6.07;

(g) Investments received in lieu of Cash in connection with any asset sale permitted by Section 6.08;

(h) loans or advances to present or former employees, directors, members of management, officers, managers or consultants or independent contractors (or their respective Immediate Family Members) of any Parent Company, Rockport Group or its Subsidiaries to the extent permitted by Requirements of Law, solely in connection with such Person's purchase of Capital Stock of any Parent Company or Subsidiary, (i) in an aggregate principal amount not to exceed **$2,500,000** at any one time outstanding or (ii) so long as the proceeds of such Capital Stock are substantially contemporaneously contributed to Rockport Group or such Subsidiary;

(i) Investments consisting of extensions of credit in the nature of accounts receivable or notes receivable arising from the grant of trade credit in the ordinary course of business;

(j) Investments consisting of Indebtedness permitted under Section 6.01 (other than Indebtedness permitted under Sections 6.01(b) and (h)), Permitted Liens, Restricted Payments permitted under Section 6.05 (other than Section 6.05(a)(ix)), Restricted Debt Payments permitted by Section 6.05 and mergers, amalgamations, consolidations or asset sales or dispositions permitted by Section 6.08 (other than Section 6.08(a) (if made in reliance on subclause (ii)(y)), Section 6.08(b) (if made in reliance on clause (ii)), Section 6.08(c)(i) (if made in reliance on the proviso therein) and Section 6.08(g));

(k) Investments in the ordinary course of business consisting of endorsements for collection or deposit and customary trade arrangements with customers;

(l) Investments (including debt obligations and Capital Stock) received (i) in connection with the bankruptcy or reorganization of any Person, (ii) in settlement of delinquent obligations of, or other disputes with, customers, suppliers and other financially troubled account debtors arising in the ordinary course of business, and/or (iii) upon foreclosure with respect to any secured Investment or other transfer of title with respect to any secured Investment;

(m) loans and advances of payroll payments or other compensation to present or former employees, directors, members of management, officers, managers or consultants of any Parent Company (to the extent the underlying payroll payment or compensation is attributable to the ownership or operation of Rockport Group and its Subsidiaries), Rockport Group or any Subsidiary in the ordinary course of business;

(n) Investments to the extent that payment for such Investments is made solely with Capital Stock (other than Disqualified Capital Stock) of Holdings, any Parent Company or any Subsidiary or, following an IPO, Rockport Group, in each case, to the extent not resulting in a Change of Control;

(o) (i) Investments of any Person acquired by, or merged into or consolidated or amalgamated with, Rockport Group or any Subsidiary pursuant to an Investment otherwise permitted by this Section 6.07 after the Closing Date to the extent that such Investments of such Person were not made in contemplation of or in connection with such acquisition, merger, amalgamation or consolidation and were in existence on the date of such acquisition, merger, amalgamation or consolidation and (ii) any modification, replacement, renewal or extension of any Investment permitted under clause (i) of this Section 6.07(o) so long as any such modification, renewal or extension thereof does not increase the amount of such Investment except as otherwise permitted by this Section 6.07 (it being understood that the "grandfathering" of Investments pursuant to this clause (o) is not intended to limit the application of clause (c) of the definition of "Permitted Acquisition" to existing Investments in non-Loan Parties acquired pursuant to a Permitted Acquisition);

(p) the Transactions;

(q) Investments made after the date hereof by Rockport Group and/or any of its Subsidiaries in an aggregate amount at any time outstanding not to exceed the greater of **$10,000,000** and **31.0%** of Consolidated EBITDA;

(r) Investments made after the date hereof by Rockport Group and its Subsidiaries; provided that both before and after giving effect to any Investment made in reliance on this clause (r), the Payment Conditions are satisfied;

(s) (i) Guarantees of leases (other than Capital Leases) or of other obligations not constituting Indebtedness and (ii) Guarantees of the lease obligations of suppliers, customers, franchisees and licensees of Rockport Group and its Subsidiaries, in each case in the ordinary course of business;

(t) Investments in Holdings in amounts and for purposes for which Restricted Payments to Holdings are permitted under Section 6.05(a); provided that any such Investments made as provided above in lieu of such Restricted Payments shall reduce availability under the applicable Restricted Payment basket under Section 6.05(a);

(u) Investments made by any Subsidiary that is not a Loan Party to the extent such Investments are made with the proceeds received by such Subsidiary from an Investment made by a Loan Party in such Subsidiary pursuant to this Section 6.07 (other than Investments pursuant to clause (ii) of Section 6.07(e));

(v) Investments under any Derivative Transactions of the type permitted to be entered into under Section 6.01(s); and

(w) extensions of trade credit in the ordinary course of business; reclassification of any Investment initially made in (or reclassified as) one form into another (such as from equity to loan or vice versa); provided in each case that the amount of such Investment is not increased thereby; advances, loans, rebates and extensions of credit (including the creation of receivables) to suppliers, customers and vendors, and performance guarantees, in each case in the ordinary course of business; Investments consisting of purchases and acquisitions of inventory, supplies, material or equipment pursuant to joint marketing, joint development or similar arrangements with other Persons.

For purposes of determining compliance with this Section 6.07, in the event that a proposed Investment (or portion thereof) meets the criteria of more than one of the categories of Investments described in Section 6.07(a) through (w) above (or portions thereof), the Borrower Representative will be entitled to classify or reclassify (based on circumstances existing at the time of such reclassification) such

Investment or portion thereof in any manner that complies with this Section 6.07 and such Investment will be treated as having been made pursuant to only such clause (or clauses).

Section 6.08 Fundamental Changes; Disposition of Assets. The Borrowers and the Subsidiary Guarantors shall not, nor shall they permit any of their Subsidiaries to, enter into any transaction of merger, consolidation or amalgamation, or liquidate, wind up or dissolve or be dissolved (or suffer any liquidation or dissolution), or convey, sell, lease or sublease (as lessor or sub-lessor), transfer or otherwise dispose of, in a single transaction or in a related series of transactions, all or any part of its business, assets or property of any kind whatsoever, whether real, personal or mixed and whether tangible or intangible, whether now owned or hereafter acquired, except:

(a) (i) any Borrower may be merged or consolidated or amalgamated with or into any Person, or convey, sell, transfer or otherwise dispose of all or substantially all of its business, assets or property to another Person; provided that (v) such Borrower shall be the surviving Person or the Person formed by or surviving any such merger or consolidation or amalgamation (if other than such Borrower) or to which such conveyance, sale, lease or sublease, transfer or other disposition will have been made shall be a Successor Parent Company (such Borrower or such surviving Person, the "**Successor Person**"), (w) if (1) such Borrower is a U.S. Borrower, the Successor Person shall be a Person formed under the laws of the United States, any state thereof or the District of Columbia, and (2) such Borrower is the Canadian Borrower, the Successor Person shall be a Person formed under the laws of Canada or any province or territory thereof, (x) the Successor Person, if a Successor Parent Company, shall expressly assume all of the obligations of such Borrower under this Agreement and the other Loan Documents to which such Borrower is a party pursuant to a supplement hereto and/or thereto in form reasonably satisfactory to the Administrative Agent, (y) no Default or Event of Default then exists or would result therefrom and (z) such Borrower shall deliver a certificate of a Responsible Officer with respect to the satisfaction of the conditions under clauses (v), (w), (x) and (y) of this proviso and (ii) any Subsidiary may be merged or consolidated or amalgamated with or into, or convey, sell, transfer or otherwise dispose of all or substantially all of its business, assets or property to, any Borrower or any other Subsidiary; provided that (x) if (1) such Subsidiary is a Domestic Subsidiary, the Borrower or Subsidiary with which it may be merged or consolidated or amalgamated with or into, or convey, sell, transfer or otherwise dispose of all or substantially all of its business, assets or property, shall be a Domestic Subsidiary, and (2) such Subsidiary is a Canadian Subsidiary, the Borrower or Subsidiary with which it may be merged or consolidated or amalgamated with or into, or convey, sell, transfer or otherwise dispose of all or substantially all of its business, assets or property, shall be a Canadian Subsidiary (y) in the case of such a merger, amalgamation or consolidation with or into any Borrower, such Borrower shall be the continuing or surviving Person and (z) in the case of such a merger, amalgamation or consolidation with or into any Subsidiary Guarantor, either (A) such Subsidiary Guarantor shall be the continuing or surviving Person or (B) such transaction shall be treated as an Investment and shall comply with Section 6.07;

(b) sales or other dispositions among Rockport Group and its Subsidiaries of assets other than Inventory (upon voluntary liquidation or otherwise); provided that any such sale or disposition by a Loan Party to a Person that is not a Loan Party shall be (i) for fair market value (as reasonably determined by such Person) and at least **75.0%** of the consideration for such sale or disposition consists of Cash or Cash Equivalents payable at the time of consummation of such sale or other disposition or (ii) treated as an Investment and otherwise made in compliance with Section 6.07 (other than in reliance on clause (j) thereof);

(c) (i) the liquidation or dissolution of any Subsidiary or change in form of entity of any Subsidiary if the Borrower Representative determines in good faith that such liquidation, dissolution or change in form is in the best interests of Rockport Group, is not materially disadvantageous to the Lenders and, in the case of a liquidation or dissolution of any Subsidiary either Rockport Group or a

Subsidiary receives any assets of such dissolved or liquidated Subsidiary; provided that in the case of a dissolution or liquidation of a Loan Party that results in a distribution of assets to a Subsidiary that is not a Loan Party, such distribution shall be treated as an Investment and shall comply with Section 6.07 (other than Section 6.07(j)) and (ii) any merger, amalgamation, dissolution, liquidation or consolidation, the purpose of which is to effect (A) a sale or disposition otherwise permitted under this Section 6.08 (other than clause (a), clause (b) or this clause (c)); provided, further, in the case of a change in the form of entity of any Subsidiary that is a Loan Party, the security interests in the Collateral of such Loan Party shall remain in full force and effect and perfected to the same extent as prior to such change or (B) an Investment permitted under Section 6.07;

(d) (x) sales or leases of inventory or equipment in the ordinary course of business (including on an intercompany basis) and (y) the leasing or subleasing of real property in the ordinary course of business;

(e) (x) disposals of surplus, obsolete, used or worn out property or other property that, in the reasonable judgment of the Borrower Representative, is no longer useful in its business (or in the business of any Borrower or any of their respective Subsidiaries) and (y) any assets acquired in connection with the acquisition of another Person or a division or line of business of such Person which the Borrower Representative reasonably determines are surplus assets;

(f) dispositions or sales of Cash Equivalents or other assets that were Cash Equivalents when the original Investment was made (in each case, for the fair market value thereof);

(g) dispositions, mergers, amalgamations, consolidations or conveyances that constitute Investments permitted pursuant to Section 6.07 (other than Section 6.07(j)), Permitted Liens, and Restricted Payments permitted by Section 6.05(a) (other than Section 6.05(a)(ix));

(h) sales or other dispositions of any assets of Rockport Group or any Subsidiary for fair market value; provided that with respect to sales or dispositions in an aggregate amount in excess of **$5,000,000**, at least **75.0%** of the consideration for such sale or disposition shall consist of Cash or Cash Equivalents (provided that for purposes of the **75.0%** Cash consideration requirement (w) the amount of any Indebtedness or other liabilities (other than Indebtedness or other liabilities that are subordinated to the Obligations or that are owed to Rockport Group or a Subsidiary) of Rockport Group or any Subsidiary (as shown on such person's most recent balance sheet or in the notes thereto) that are assumed by the transferee of any such assets and for which Rockport Group and its Subsidiaries shall have been validly released by all relevant creditors in writing, (x) the amount of any trade-in value applied to the purchase price of any replacement assets acquired in connection with such sale or disposition, (y) any Securities received by Rockport Group or any Subsidiary from such transferee that are converted by such Person into Cash or Cash Equivalents (to the extent of the Cash or Cash Equivalents received) within **one hundred eighty (180)** days following the closing of the applicable sale or disposition and (z) any Designated Non-Cash Consideration received in respect of such sale or disposition having an aggregate fair market value, taken together with all other Designated Non-Cash Consideration received pursuant to this clause (z) that is at that time outstanding, not in excess of **$15,000,000**, in each case, shall be deemed to be Cash); provided, further, that immediately prior to and after giving effect to such sale or disposition, no Event of Default shall have occurred that is continuing on the date on which the agreement governing such sale or disposition is executed;

(i) to the extent that (i) the relevant property or assets are exchanged for credit against the purchase price of similar replacement property or (ii) the proceeds of the relevant sale or disposition are promptly applied to the purchase price of such replacement property;

(j) dispositions of Investments in joint ventures to the extent required by, or made pursuant to, buy/sell arrangements between the joint venture parties set forth in joint venture arrangements and similar binding arrangements;

(k) sales, discounting or forgiveness of accounts receivable in the ordinary course of business or in connection with the collection or compromise thereof;

(l) dispositions and/or terminations of leases, subleases, licenses or sublicenses (including the provision of software under an open source license), which (i) do not materially interfere with the business of Rockport Group and its Subsidiaries or (ii) relate to closed branches or manufacturing facilities or the discontinuation of any product or service line;

(m) (i) termination of leases in the ordinary course of business, (ii) the expiration of any option agreement in respect of real or personal property and (iii) any surrender or waiver of contractual rights or the settlement, release or surrender of contractual rights or other litigation claims in the ordinary course of business;

(n) transfers of property subject to casualty, eminent domain or condemnation proceedings (including in lieu thereof);

(o) the sale, lease, sublease, license, sublicense, consignment, conveyance or other disposition of equipment, inventory or other assets (including leasehold interests in real property) with respect to facilities that are temporarily not in use, held for sale or closed;

(p) dispositions of Inventory outside the ordinary course of business in connection with store closings and dispositions of excess Inventory prior to the termination of the Transition Services Agreement;

(q) sales of non-core assets acquired in connection with an acquisition permitted hereunder and sales of Real Estate Assets acquired in an acquisition permitted hereunder which, within **thirty (30)** days of the date of the acquisition, are designated in writing to the Administrative Agent as being held for sale and not for the continued operation of Rockport Group or any of its Subsidiaries or any of their respective businesses; provided that (i) the Net Proceeds received in connection with any such sales (other than Net Proceeds allocable to Note Collateral) shall be deposited in a Blocked Account as provided in Section 2.21 and (ii) no Event of Default shall have occurred and be continuing;

(r) exchanges or swaps, including transactions covered by Section 1031 of the Code, of property or assets so long as the exchange or swap is made for fair value and on an arm's length basis for like property or assets; provided that upon the consummation of such exchange or swap, in the case of any Loan Party, the Administrative Agent has a perfected Lien having the same priority as any Lien held on the Real Estate Assets so exchanged or swapped;

(s) other sales and dispositions for fair market value in an aggregate amount since the Closing Date of not more than the greater of **$5,000,000** and **15.0%** of Consolidated EBITDA;

(t) (i) licensing and cross-licensing arrangements involving any technology, intellectual property or IP Rights of Rockport Group or any Subsidiary in the ordinary course of business, and (ii) the sale, disposal, abandonment, cancellation or lapse of IP Rights, or any issuances or registrations, or applications for issuances or registrations, of any IP Rights, which, in the reasonable good faith determination of the Borrower Representative are uneconomical, or not material to the conduct of the business of Rockport Group and/or its Subsidiaries;

(u) terminations of Derivative Transactions;

(v) sales or dispositions of Capital Stock of Unrestricted Subsidiaries;

(w) dispositions of Real Estate Assets and related assets in the ordinary course of business in connection with relocation activities for directors, officers, employees, members of management or consultants of any Parent Company, Rockport Group or any Subsidiary;

(x) bulk sales or other dispositions of Inventory of a Loan Party not in the ordinary course of business in connection with the closing of stores (i) to the extent the costs and expenses related to such closures are, or expected to be, reimbursed by the Seller or its Affiliates, pursuant to Section 6.9.8 of the Master Purchase Agreement, (ii) during the first full Fiscal Year after the Closing Date representing not more than **25%** of the total stores of Holdings and its Subsidiaries as of the Closing Date, (iii) during any other Fiscal Year representing not more than **10%** of the total stores of Holdings and its Subsidiaries as of the first day of such Fiscal Year and (iv) during the term of this Agreement representing not more than **40%** of the total stores of Holdings and its Subsidiaries as of the Closing Date, provided that (i) any such sale or disposition is at arm's-length, (ii) the consideration received for such sale or disposition is at least **75%** Cash (or, in the case of any sale, transfer or other disposition of more than **10%** of the Collateral, **90%** Cash), and (iii) a professional liquidator acceptable to the Administrative Agent shall have been engaged in connection with any sale or other disposition of more than **10%** of the Collateral;

(y) the lapse or abandonment or other disposition of patents, trademarks or other Intellectual Property that are, in the reasonable judgment of the Borrower Representative, no longer economically practicable to maintain or useful in the conduct of the business of Holdings and the other Subsidiaries taken as a whole;

(z) the sale or discount (with or without recourse, and on customary or commercially reasonable terms) in the ordinary course of business of accounts receivable or notes receivable arising in the ordinary course of business, or the conversion or exchange of accounts receivable for notes receivable in the ordinary course of business;

(aa) disposals of inventory pursuant to promotional or similar activities in the ordinary course of business;

(bb) the grant of buy-out options to licensees of trademarks and other Intellectual Property pursuant to license agreements entered into in the ordinary course of business and the sale of such trademarks and other Intellectual Property to such licensees;

(cc) dispositions of receivables in connection with factoring or similar arrangements for receivables of Subsidiaries that are not Loan Parties;

(dd) dispositions in connection with the transition to distribution agreements;

(ee) sales of accounts or loans receivable, or participations therein, in connection with any Receivables Facility as permitted hereunder;

(ff) dispositions of Inventory in an amount not to exceed **$15,000,000** within **eighteen (18)** months of the Closing Date; and

(gg) the consignment or other concession of Inventory with respect to facilities owned, leased or operated by Seller or its Affiliates and the sale of such Inventory at a discount pursuant to Section 6.9.4 of the Master Purchase Agreement;

provided that no sale or transfer of any Intellectual Property (as defined in the Pledge and Security Agreement) shall be made that would (i) result in the loss by Holdings and the Subsidiaries of the free and unconditional use of the Rockport name or any trade name or brand name needed for the disposition of any Eligible Inventory, (ii) prevent, delay, hinder or increase the cost of the Administrative Agent's exercise of its rights under the license to Intellectual Property granted under the Pledge and Security Agreement (it being understood that this proviso is not intended to prevent the grant of any license or Lien on Intellectual Property so long as all rights necessary to enable the Administrative Agent to exercise its rights in respect of the Collateral are reserved) or (iii) prevent, delay, hinder or increase the cost of Holdings', the Rockport Group's and the other Subsidiaries' conduct of the business of Holdings, the Rockport Group's and the other Subsidiaries from substantially the manner in which it is currently conducted. This Section shall not be construed to prohibit transfers of Cash by Holdings or any of its Subsidiaries that are not prohibited by any other provision of this Agreement.

To the extent any Collateral is sold as expressly permitted by this Section 6.08 to any Person other than a Loan Party, such Collateral shall automatically be sold free and clear of the Liens created by the Loan Documents, and the Administrative Agent shall be authorized to take, and shall take, any actions deemed appropriate in order to effect the foregoing.

Section 6.09 **[Reserved]**.

Section 6.10 Sales and Lease-Backs. The Borrowers and the Subsidiary Guarantors shall not, nor shall they permit any of their Subsidiaries to, directly or indirectly, become or remain liable as lessee or as a guarantor or other surety with respect to any lease of any property (whether real, personal or mixed), whether now owned or hereafter acquired, which Rockport Group or such Subsidiary (a) has sold or transferred or is to sell or to transfer to any other Person (other than Rockport Group or any of its Subsidiaries) and (b) intends to use for substantially the same purpose as the property which has been or is to be sold or transferred by Rockport Group or Subsidiary to any Person (other than Rockport Group or any of its Subsidiaries) in connection with such lease.

Section 6.11 Transactions with Affiliates. The Borrowers and the Subsidiary Guarantors shall not, nor shall they permit any of their Subsidiaries to enter into or permit or suffer to exist any transaction (including the purchase, sale, lease or exchange of any property or the rendering of any service) involving payments in excess of **$1,000,000** in the aggregate from the Closing Date until the Termination Date with any of their Affiliates on terms that are less favorable to Rockport Group or such Subsidiary, as the case may be, than those that might be obtained at the time in a comparable arm's-length transaction from a Person who is not an Affiliate; provided that the foregoing restriction shall not apply to:

(a) any transaction between or among Rockport Group and/or one or more Subsidiaries to the extent permitted or not restricted by this Agreement;

(b) any issuance, sale or grant of securities or other payments, awards or grants in cash, securities or otherwise pursuant to, or the funding of employment arrangements, stock options and stock ownership plans approved by the board of directors (or equivalent governing body) of any Parent Company or of Rockport Group or any Subsidiary;

(c) (i) any employment agreements, severance agreements or compensatory (including profit sharing) arrangements entered into by Rockport Group or any of its Subsidiaries with

their respective current or former officers, directors, members of management, employees, consultants or independent contractors, in each case in the ordinary course of business, (ii) any subscription agreement or similar agreement pertaining to the repurchase of Capital Stock pursuant to put/call rights or similar rights with current or former officers, directors, members of management, employees, consultants or independent contractors, (iii) transactions pursuant to any employee compensation arrangement, benefit plan, stock option plan or arrangement, any health, disability or similar insurance plan which covers current or former officers, directors, members of management, employees, consultants or independent contractors or any employment contract or arrangement and (iv) transactions pursuant to any compensatory arrangement or any equity subscription, co-invest agreement or equityholder agreement with management of Rockport Group or any direct or indirect parent company of Rockport Group in connection with the Transactions;

(d) (i) transactions permitted by Sections 6.01(d), (o), (bb) and (ee), 6.05 and 6.07(h), (m), and (t) and (ii) issuances of Capital Stock and debt securities not restricted by this Agreement;

(e) transactions in existence on the Closing Date and described on Schedule 6.11 and any amendment thereto to the extent such amendment is not adverse to the Lenders in any material respect;

(f) (x) so long as no Event of Default under Section 7.01(a), 7.01(f) or 7.01(g) then exists or would result therefrom, transactions pursuant to the Sponsor Management Agreement and (y) the payment of all indemnities and expenses owed to the parties to any such management or similar agreement and/or the Sponsor Management Agreement and their respective directors, officers, members of management, employees and consultants, in each case whether currently due or paid in respect of accruals from prior periods;

(g) the Transactions, including the payment of Transaction Costs;

(h) customary compensation to Affiliates in connection with any financial advisory, financing, underwriting or placement services or in respect of other investment banking activities and other transaction fees, which payments are approved by the majority of the members of the board of directors (or similar governing body) or a majority of the disinterested members of the board of directors (or similar governing body) of Rockport Group in good faith;

(i) Guarantees permitted by Section 6.01;

(j) loans and other transactions to the extent permitted under this Article 6;

(k) the payment of customary fees, reasonable out-of-pocket costs to and indemnities provided on behalf of, current or former members of the board of directors (or similar governing body), officers, employees, members of management, consultants and independent contractors of Rockport Group and its Subsidiaries in the ordinary course of business and, in the case of payments to such Person in such capacity on behalf of any Parent Company, to the extent attributable to the operations of Rockport Group and its Subsidiaries;

(l) any payments, transactions or services contemplated under the Transition Services Agreement, the Management Agreement or the Master Purchase Agreement, in each case, as in effect on the date hereof;

(m) the payment of reasonable out-of-pocket costs and expenses related to registration rights and customary indemnities provided to shareholders under any shareholder agreement;

(n) **[Reserved]**;

(o) the existence and performance of agreements and transactions with any Unrestricted Subsidiary that were entered into prior to the designation of a Subsidiary as such Unrestricted Subsidiary to the extent that the transaction was permitted at the time that it was entered into with such Subsidiary and transactions entered into by an Unrestricted Subsidiary with an Affiliate prior to the redesignation of any such Unrestricted Subsidiary as a Subsidiary; provided that such transaction was not entered into in contemplation of such designation or redesignation, as applicable, and is otherwise permitted by this Article 6;

(p) (i) investments by Permitted Holders in securities of Rockport Group or any Subsidiary (and payment of reasonable out-of-pocket expenses incurred by such Permitted Holders in connection therewith) so long as the investment is being offered by Rockport Group or such Subsidiary generally to other investors on the same or more favorable terms, and (ii) payments to Permitted Holders in respect of securities or loans of Rockport Group or any Subsidiary contemplated in the foregoing clause (i) or that were acquired from Persons other than Rockport Group and its Subsidiaries, in each case, in accordance with the terms of such securities or loans; provided that with respect to securities of Rockport Group or any Subsidiary contemplated in clause (i) above, such investment constitutes less than **10%** of the proposed or outstanding issue amount of such class of securities;

(q) **[Reserved]**; and

(r) any transactions or services provided by New Balance pursuant to the Transition Trademark License Agreement, Trademark Assignment, Contribution Agreement, Debt Transfer Agreement, the IP Transfer Agreement, in each case as in effect on the date hereof, and any management agreement to be entered into between Rockport Group or Rockport and any foreign affiliate of New Balance after the Closing Date.

Section 6.12 Conduct of Business. From and after the Closing Date, the Borrowers and the Subsidiary Guarantors, taken as a whole, shall not, nor shall they permit any of their Subsidiaries to, engage in any material line of business other than (a) the businesses engaged in by Rockport Group or its Subsidiaries on the Closing Date and similar, complementary, ancillary, incidental, synergistic or related businesses or extensions thereof (and non-core incidental businesses acquired in connection with any Permitted Acquisition or permitted Investment) and (b) such other lines of business as may be consented to by the Required Lenders.

Section 6.13 Amendments or Waivers of Organizational Documents. The Borrowers and the Subsidiary Guarantors shall not, nor shall they permit any of their Subsidiaries to, amend or modify, in each case in a manner that is materially adverse to the Lenders (in their capacities as such) such Person's Organizational Documents without obtaining the prior written consent of the Administrative Agent.

Section 6.14 Amendments of or Waivers with Respect to Certain Indebtedness and Other Documents. The Borrowers and the Subsidiary Guarantors shall not, nor shall they permit any of their Subsidiaries to, amend or otherwise change (i) the terms of the Senior Notes (or Refinancing Indebtedness in respect thereof) in a manner that violates the Subordination Agreement, (ii) Junior Indebtedness (or the documentation governing the foregoing) in a manner that violates the subordination terms thereof or (iii) the subordination provisions of any Subordinated Indebtedness (other than Junior Indebtedness) (and the component definitions as used therein), in each case of this clause (iii), if the effect of such amendment or

change, together with all other amendments or changes made, is materially adverse to the interests of the Lenders (in their capacities as such); provided that the foregoing limitation in this clause (iii) shall not otherwise prohibit Refinancing Indebtedness permitted under Section 6.01 in respect thereof.

Section 6.15 Fiscal Year. None of Holdings (or any Successor Parent Company), Rockport Group or any Subsidiary Guarantors shall, nor shall they permit any of their Subsidiaries to, change their respective fiscal year-ends to a date other than December 31; provided, that Holdings, Rockport Group, each of the Subsidiary Guarantors and each of their Subsidiaries may collectively, upon 30 days' prior written notice to the Administrative Agent and with the consent of the Administrative Agent change their fiscal year-ends, on no more than three occasions to another fiscal year-end, so long as (a) the Borrower Representative shall deliver such financial information as the Administrative Agent may reasonably request to ensure such change in fiscal year-end does not adversely affect the interest of the Lenders in any material respect, (b) the payment dates of any amounts under this Agreement that may be affected by such change shall be adjusted as reasonably required by the Administrative Agent and (c) any such change in fiscal year-end does not otherwise adversely affect the interests of the Lenders in any material respect had such change not been made, in which case Holdings, Rockport Group, the Subsidiary Guarantors and the Administrative Agent will, and are hereby authorized to, effectuate any adjustments to this Agreement as are necessary to preserve the original intent of the parties hereto to reflect such change in the fiscal year-ends.

Section 6.16 Permitted Activities of Holdings. Holdings and each Successor Parent Company shall not (a) incur, directly or indirectly, any Indebtedness for borrowed money other than (i) the Indebtedness under the Loan Documents and the Note Purchase Agreement or otherwise in connection with the Transactions, (ii) Guarantees of Indebtedness of Rockport Group and its Subsidiaries permitted hereunder, (iii) the Seller Notes and (iv) Qualified Holding Company Debt; (b) create or suffer to exist any Lien upon any property or assets now owned or hereafter acquired by it other than (i) the Liens created under the Collateral Documents and, subject to the Intercreditor Agreement, the collateral documents relating to the Senior Notes, in each case, to which it is a party, (ii) any other Lien created in connection with the Transactions, (iii) Permitted Liens on the Collateral that are secured on a *pari passu* or junior basis with the Secured Obligations, so long as such Permitted Liens secure Guarantees permitted under clause (a)(ii) above and the underlying Indebtedness subject to such Guarantee is permitted to be secured on the same basis pursuant to Section 6.02 and (iv) Liens of the type permitted under Section 6.02 (other than in respect of debt for borrowed money); (c) engage in any business activity or own any material assets other than (i) holding **100.0%** of the Capital Stock of Rockport Group or any other Guarantor and, indirectly, any other subsidiary of Rockport Group; (ii) performing its obligations under the Loan Documents and the Note Purchase Agreement and other Indebtedness, Liens (including the granting of Liens) and Guarantees permitted hereunder; (iii) issuing its own Capital Stock; (iv) filing Tax reports and paying Taxes and other customary obligations related thereto in the ordinary course (and contesting any Taxes); (v) preparing reports to Governmental Authorities and to its shareholders; (vi) holding director and shareholder meetings, preparing corporate or limited liability company records and other corporate or limited liability company activities required to maintain its separate corporate or limited liability company structure or to comply with applicable Requirements of Law; (vii) effecting an IPO; (viii) holding Cash and other assets received in connection with Restricted Payments or Investments made by Rockport Group and its Subsidiaries or contributions to, or proceeds from the issuance of, issuances of Capital Stock of Holdings, in each case, pending the application thereof in a manner not prohibited by this Agreement; (ix) providing indemnification for its current or former officers, directors, members of management, employees and advisors or consultants; (x) participating in tax, accounting and other administrative matters; (xi) performing its obligations under the Sponsor Management Agreement, any "management" or similar agreement described in Section 6.11(f), this Agreement and Master Purchase Agreement and the other documents, agreements and Investments contemplated by the Transactions; (xii) complying with applicable Requirements of Law (including with respect to the

maintenance of its existence); and (xiii) performing activities incidental to any of the foregoing; or (d) consolidate or amalgamate or merge with or into, or convey, transfer or lease all or substantially all its assets to, any Person; provided that, so long as no Default or Event of Default exists or would result therefrom, Holdings may merge or consolidate or amalgamate with or into any other Person (except as provided below, other than Rockport Group and any of its Subsidiaries) so long as (i) Holdings shall be the continuing or surviving Person or (ii) if the Person formed by or surviving any such merger or consolidation or amalgamation is not Holdings, (A) the successor Person shall expressly assume all the obligations of Holdings under this Agreement and the other Loan Documents to which Holdings is a party pursuant to a supplement hereto and/or thereto in a form reasonably satisfactory to the Administrative Agent, (B) such successor shall be an entity organized under the laws of the United States, any state thereof or the District of Columbia, (C) such successor has no Indebtedness or other liabilities and engages in no business activities and owns no material assets, in each case, other than as permitted under this Section 6.16 and (D) the Borrower Representative shall deliver a certificate of a Responsible Officer with respect to the satisfaction of the conditions under the immediately preceding clauses (A)-(C) hereof and there being no Default or Event of Default then in existence or as would result from therefrom; provided, further, that if the conditions set forth in the preceding proviso are satisfied, the successor to Holdings will succeed to, and be substituted for, Holdings under this Agreement. Notwithstanding anything to the contrary in this Agreement, Holdings may consolidate or amalgamate or merge with and into Rockport Group so long as (A) the direct Parent Company of Rockport Group is organized or existing under the laws of the United States, any state thereof, the District of Columbia or any territory thereof (such direct Parent Company, the "**Successor Parent Company**"), (B) the Successor Parent Company expressly assumes all of the obligations of Holdings under this Agreement and the other Loan Documents to which Holdings is a party, as well as any Qualified Holding Company Debt then outstanding, pursuant to a supplement hereto and/or thereto in a form reasonably satisfactory to the Administrative Agent, (C) the Successor Parent Company has no Indebtedness or other liabilities and engages in no business activities and owns no material assets other than as permitted under this Section 6.16, (D) no Default or Event of Default then exists or would result therefrom and (E) the Successor Parent Company shall deliver a certificate of a Responsible Officer with respect to the satisfaction of the conditions in the immediately preceding clauses (A)-(D) hereof.

Section 6.17 Permitted Activities of UK Holdings. UK Holdings shall not (a) incur, directly or indirectly, any Indebtedness for borrowed money other than (i) the Indebtedness under the Loan Documents and the Note Purchase Agreement or otherwise in connection with the Transactions, and (ii) Guarantees of Indebtedness of Rockport Group and its Subsidiaries permitted hereunder; (b) create or suffer to exist any Lien upon any property or assets now owned or hereafter acquired by it other than (i) the Liens created under the Collateral Documents to which it is a party, and (ii) any other Lien created in connection with the Transactions; (c) engage in any business activity or own any material assets other than (i) holding **100.0%** of the Capital Stock of Canadian Borrower; (ii) performing its obligations under the Loan Documents and other Indebtedness, Liens (including the granting of Liens) and Guarantees permitted hereunder; (iii) issuing its own Capital Stock; (iv) filing Tax reports and paying Taxes and other customary obligations related thereto in the ordinary course (and contesting any Taxes); (v) preparing reports to Governmental Authorities and to its shareholders; (vi) holding director and shareholder meetings, preparing corporate or limited liability company records and other corporate or limited liability company activities required to maintain its separate corporate or limited liability company structure or to comply with applicable Requirements of Law; (vii) effecting an IPO; (viii) holding Cash and other assets received in connection with Restricted Payments or Investments made by its Subsidiaries or contributions to, or proceeds from the issuance of, issuances of Capital Stock of UK Holdings, in each case, pending the application thereof in a manner not prohibited by this Agreement; (ix) providing indemnification for its current or former officers, directors, members of management, employees and advisors or consultants; (x) participating in tax, accounting and other administrative matters; (xi) performing its obligations under any "management" or similar agreement described in Section 6.11(f), this Agreement and the other

documents, agreements and Investments contemplated by the Transactions; (xii) complying with applicable Requirements of Law (including with respect to the maintenance of its existence); and (xiii) performing activities incidental to any of the foregoing; or (d) consolidate or amalgamate or merge with or into, or convey, transfer or lease all or substantially all its assets to, any Person; provided that, so long as no Default or Event of Default exists or would result therefrom, UK Holdings may merge or consolidate or amalgamate with or into any other Person (other than Rockport Group and any of its Subsidiaries) so long as (i) UK Holdings shall be the continuing or surviving Person or (ii) if the Person formed by or surviving any such merger or consolidation or amalgamation is not UK Holdings, (A) the successor Person shall expressly assume all the obligations of UK Holdings under this Agreement and the other Loan Documents to which UK Holdings is a party pursuant to a supplement hereto and/or thereto in a form reasonably satisfactory to the Administrative Agent, (B) such successor shall be an entity organized under the laws of the United Kingdom, (C) such successor has no Indebtedness or other liabilities and engages in no business activities and owns no material assets, in each case, other than as permitted under this Section 6.17 and (D) the Borrower Representative shall deliver a certificate of a Responsible Officer with respect to the satisfaction of the conditions under the immediately preceding clauses (A)-(C) hereof and there being no Default or Event of Default then in existence or as would result from therefrom; provided, further, that if the conditions set forth in the preceding proviso are satisfied, the successor to UK Holdings will succeed to, and be substituted for, UK Holdings under this Agreement.

Section 6.18 Fixed Charge Coverage Ratio.

(a) Upon the occurrence and during the continuance of a Covenant Trigger Period, the Borrowers will not permit the Fixed Charge Coverage Ratio to be less than 1.00 to 1.00 when measured for any Test Period, as of the end of (a) the last fiscal quarter immediately preceding the occurrence of such Covenant Trigger Period for which financial statements have been delivered pursuant to Section 5.01(b) or (c) and (b) as of each fiscal quarter for which financial statements are delivered pursuant to Section 5.01(b) or (c) during such Covenant Trigger Period.

(b) Notwithstanding anything to contrary in this Agreement (including Article 7), upon an Event of Default as a result of the Borrowers' failure to comply with Section 6.18(a) above, Holdings shall have the right (the "**Cure Right**") (at any time during such Fiscal Quarter or thereafter until the date that is **fifteen (15)** Business Days after the date that financial statements for such Fiscal Quarter are required to be delivered pursuant to Section 5.01(b) or (c)) to issue equity (which shall be common equity, Qualified Capital Stock or other equity (such other equity to be on terms reasonably acceptable to the Administrative Agent)) for Cash or otherwise receive Cash contributions to its common equity, which shall in turn be contributed as Cash common equity to Rockport Group (the "**Cure Amount**"), and thereupon the Borrowers' compliance with Section 6.18(a) shall be recalculated giving effect to the following pro forma adjustment: Consolidated EBITDA shall be increased (notwithstanding the absence of an addback in the definition of "Consolidated EBITDA"), solely for the purposes of determining compliance with Section 6.18(a) hereof, including determining compliance with Section 6.18(a) hereof as of the end of such Fiscal Quarter and applicable subsequent periods that include such Fiscal Quarter, by an amount equal to the Cure Amount. If, after giving effect to the foregoing recalculations (but not, for the avoidance of doubt, taking into account any immediate repayment of Indebtedness in connection therewith), the requirements of Section 6.18(a) shall be satisfied, then the requirements of Section 6.18(a) shall be deemed satisfied as of the end of the relevant Fiscal Quarter with the same effect as though there had been no failure to comply therewith at such date, and the applicable breach or default of Section 6.18(a) that had occurred shall be deemed cured for the purposes of this Agreement. Notwithstanding anything herein to the contrary, (i) in each four consecutive Fiscal Quarter period of Rockport Group there shall be at least two Fiscal Quarters in which the Cure Right is not exercised, (ii) during the term of this Agreement, the Cure Right shall not be exercised more than five times, (iii) the Cure Amount shall be no greater than the amount required for purposes of complying with

Section 6.18(a), (iv) upon the Administrative Agent's receipt of a written notice from the Borrower Representative that it intends to exercise the Cure Right (a "**Notice of Intent to Cure**"), until the **15th** Business Day following the date that financial statements for the Fiscal Quarter to which such Notice of Intent to Cure relates are required to be delivered pursuant to Section 5.01(b) or (c), neither the Administrative Agent nor any Lender shall exercise the right to accelerate the Loans or terminate the Commitments, and none of the Administrative Agent nor any other Lender or any Secured Party shall exercise any right to foreclose on or take possession of the Collateral or any other right or remedy under the Loan Documents, in each case, solely on the basis of such Event of Default having occurred and being continuing under Section 6.18(a), (v) during any Test Period in which the Cure Amount is included in the calculation of Consolidated EBITDA pursuant to any exercise of the Cure Right, such Cure Amount shall be counted solely as an increase to Consolidated EBITDA (and not as a reduction of Indebtedness (directly through repayment or indirectly through netting)) for the purpose of determining the Borrowers' compliance with Section 6.18(a) and shall be disregarded for any other purpose, including for purposes of determining the satisfaction of any financial ratio-based condition, pricing or the availability of any basket under Article 6 of this Agreement and (vi) no Lender or Issuing Bank shall be required to make any Credit Extension hereunder if an Event of Default under the covenant set forth in Section 6.18(a) has occurred and is continuing during the **fifteen (15)** Business Day period during which Holdings may exercise a Cure Right unless and until the Cure Amount is actually received.

Section 6.19 Canadian Pension Plans. The Loan Parties shall not maintain, contribute to, assume an obligation to contribute to, or otherwise become liable for any obligation under any Canadian Defined Benefit Plan governed by the Pension Benefits Act (Ontario), without the prior written consent of the Administrative Agent.

ARTICLE 7 EVENTS OF DEFAULT

Section 7.01 Events of Default. If any of the following events (each, an "**Event of Default**") shall occur:

(a) Failure To Make Payments When Due. Failure by the Borrowers to pay (i) when due any installment of principal of any Loan, whether at stated maturity, by acceleration, by notice of voluntary prepayment, by mandatory prepayment or otherwise; or (ii) any interest on any Loan or any fee or any other amount due hereunder within **five (5)** Business Days after the date due; or

(b) Default in Other Agreements. (i) Failure of any Loan Party or any of its Subsidiaries to pay when due any principal of or interest on or any other amount payable in respect of one or more items of Indebtedness (other than Indebtedness referred to in clause (a) above) with an aggregate outstanding principal amount exceeding the Threshold Amount, in each case beyond the grace period, if any, provided therefor; or (ii) breach or default by any Loan Party with respect to any other term of (A) one or more items of Indebtedness with an aggregate outstanding principal amount exceeding the Threshold Amount or (B) any loan agreement, mortgage, indenture or other agreement relating to such item(s) of Indebtedness, in each case beyond the grace period, if any, provided therefor, if the effect of such breach or default is to cause, or to permit the holder or holders of that Indebtedness (or a trustee or agent on behalf of such holder or holders) to cause, that Indebtedness to become or be declared due and payable (or redeemable) prior to its stated maturity or the stated maturity of any underlying obligation, as the case may be; provided that in the case of clause (ii), so long as the agent and/or noteholders thereunder have sent a notice that commences the running of any grace period or "use period" under the Intercreditor Agreement, a breach or default by any Loan Party with respect to the Note Purchase Agreement will not constitute an Event of Default unless (A) such breach or default has continued for **sixty (60)** consecutive days, (B) such breach or default resulted from a payment default beyond any applicable grace period, or (C) the agent and/or lenders thereunder have demanded repayment of, or

otherwise accelerated, any of the Indebtedness or other obligations thereunder (or terminated commitments thereunder); provided, further, that clause (ii) of this paragraph (b) shall not apply to secured Indebtedness that becomes due as a result of the voluntary sale or transfer of the property or assets securing such Indebtedness if such sale or transfer is permitted hereunder; or

(c) Breach of Certain Covenants.

(i) Failure of any Borrower or any Loan Party, as required by the relevant provision, to perform or comply with any term or condition contained in Section 5.01(f)(i), Section 5.02 (as it applies to the preservation of the existence of any Borrower), Section 5.13 or Article 6; or

(ii) failure of the Borrower Representative to deliver a Borrowing Base Certificate required to be delivered pursuant to Section 5.01(k) within **five (5)** days of the date such Borrowing Base Certificate is required to be delivered (or **two (2)** days of such date if a Weekly Reporting Period has occurred and is continuing) ; or

(iii) failure to maintain insurance pursuant to Section 5.05, and such default shall not have been remedied or waived within **five (5)** days; or

(d) Breach of Representations, Etc. Any representation, warranty or certification made or deemed made by any Loan Party in any Loan Document or in any certificate or document required to be delivered in connection herewith or therewith (including, for the avoidance of doubt, any Borrowing Base Certificate, any Perfection Certificate and any Perfection Certificate Supplement) shall be untrue in any material respect as of the date made or deemed made; or

(e) Other Defaults Under Loan Documents. Any Loan Party shall default in the performance of or compliance with any term contained herein or any of the other Loan Documents, other than any such term referred to in any other Section of this Article 7, and such default shall not have been remedied or waived within **thirty (30)** days after receipt by the Borrower Representative of written notice from the Administrative Agent of such default; or

(f) Involuntary Bankruptcy; Appointment of Receiver, Etc. (i) A court of competent jurisdiction shall enter a decree or order for relief in respect of Rockport Group or any of its Subsidiaries (other than an Immaterial Subsidiary) in an involuntary case under the Bankruptcy Code or other Debtor Relief Laws now or hereafter in effect, which decree or order is not stayed; or any other similar relief shall be granted under any applicable Debtor Relief Laws; or (ii) an involuntary case shall be commenced against Rockport Group or any of its Subsidiaries (other than an Immaterial Subsidiary) under the Bankruptcy Code or other Debtor Relief Laws now or hereafter in effect; or a decree or order of a court having jurisdiction in the premises for the appointment of a receiver, receiver and manager, liquidator, sequestrator, trustee, custodian or other officer having similar powers over Rockport Group or any of its Subsidiaries (other than its Immaterial Subsidiaries), or over all or a substantial part of its property, shall have been entered; or there shall have occurred the involuntary appointment of an interim receiver, trustee or other custodian of Rockport Group or any of its Subsidiaries (other than its Immaterial Subsidiaries) for all or a substantial part of its property; and any such event described in this clause (ii) shall continue for **sixty (60)** consecutive days without having been dismissed, vacated, bonded or discharged; or

(g) Voluntary Bankruptcy; Appointment of Receiver, Etc. (i) Rockport Group or any of its Subsidiaries (other than any Immaterial Subsidiary) shall have an order for relief entered with respect to it or shall commence a voluntary case under the Bankruptcy Code or other Debtor Relief Laws now or hereafter in effect, or shall consent to the entry of an order for relief in an involuntary case, or to

the conversion of an involuntary case to a voluntary case, under any such law, or shall consent to the appointment of or taking possession by a receiver, trustee or other custodian for all or a substantial part of its property; or (ii) Rockport Group or any of its Subsidiaries (other than any Immaterial Subsidiary) shall make a general assignment for the benefit of creditors; or (iii) Rockport Group or any of its Subsidiaries (other than any Immaterial Subsidiary) shall admit in writing its inability to pay its debts as such debts become due; or

(h) Judgments and Attachments. Any one or more final money judgments, writs or warrants of attachment or similar process involving in the aggregate at any time an amount in excess of the Threshold Amount (in either case to the extent not adequately covered by self-insurance (if applicable) or by insurance as to which a third party insurance company has been notified and not denied coverage) shall be entered or filed against Rockport Group or any of its Subsidiaries or any of their respective assets and shall remain undischarged, unvacated, unbonded or unstayed pending appeal for a period of **sixty (60)** days; or

(i) **[Reserved]**; or

(j) Employee Benefit Plans. There shall occur one or more ERISA Events or Canadian Pension Events, which individually or in the aggregate results in liability of Rockport Group or any of its Subsidiaries in an aggregate amount which would reasonably be expected to result in a Material Adverse Effect; or

(k) Change of Control. A Change of Control shall occur;

(l) Guaranties, Collateral Documents and Other Loan Documents. At any time after the execution and delivery thereof, (i) any material Loan Guaranty for any reason, other than the occurrence of the Termination Date, shall cease to be in full force and effect (other than in accordance with its terms) or shall be declared to be null and void or any Guarantor shall repudiate in writing its obligations thereunder (other than as a result of the discharge of such Guarantor in accordance with the terms thereof), (ii) this Agreement or any material Collateral Document ceases to be in full force and effect (other than by reason of a release of Collateral in accordance with the terms hereof or thereof or the occurrence of the Termination Date or any other termination of such Collateral Document in accordance with the terms thereof) or shall be declared null and void, (iii) the Administrative Agent shall not have or shall cease to have a valid and perfected Lien in a material portion of the Collateral purported to be covered by the Collateral Documents with the priority required by and subject to such limitations and restrictions as are set forth by the relevant Collateral Document (except to the extent (x) any such loss of perfection or priority results from the failure of the Administrative Agent or any Secured Party to take any action within its control (unless such failure results from the breach or non-compliance by any Loan Party with the terms of the Loan Documents), (y) such loss is covered by a lender's title insurance policy as to which the insurer has been notified of such loss and does not deny coverage and the Administrative Agent shall be reasonably satisfied with the credit of such insurer or (z) such loss of perfected security interest may be remedied by the filing of appropriate documentation without the loss of priority) and any such failure of such Lien to be valid and perfected shall have continued for a period of **ten (10)** consecutive days or (iv) any Loan Party shall contest the validity or enforceability of any material provision of any Loan Document in writing or deny in writing that it has any further liability (other than by reason of the occurrence of the Termination Date), including with respect to future advances by the Lenders, under any Loan Document to which it is a party; or

(m) with respect to any Loan Party or any Subsidiaries organized under the laws of the United Kingdom (or any respective political division thereof) (each an "Applicable Party" and, collectively, the "Applicable Parties"):

(i) Any Applicable Party:

(A) is unable or admits inability to pay its debts as they fall due;

(B) is deemed to, or is declared to, be unable to pay its debts under applicable law;

(C) suspends or threatens to suspend making payments on any of its debts; or

(D) by reason of actual or anticipated financial difficulties, commences negotiations with one or more of its creditors (excluding any Lender Party in its capacity as such) with a view to rescheduling any of its Indebtedness;

(ii) A moratorium is declared in respect of any Indebtedness of any Applicable Party. If a moratorium occurs, the ending of the moratorium will not remedy any Event of Default caused by that moratorium;

(iii) Any corporate action, legal proceedings or other procedure or step is taken in relation to:

(A) the suspension of payments, a moratorium of any indebtedness, winding-up, dissolution, administration or reorganization (by way of voluntary arrangement, scheme of arrangement or otherwise) of any Applicable Party;

(B) a composition, compromise, assignment or arrangement with any creditor of any Applicable Party;

(C) the appointment of a liquidator, receiver, examiner, administrative receiver, administrator, compulsory manager or other similar officer in respect of any Applicable Party or any of its assets; or

(D) enforcement of any Lien over any assets of any Applicable Party, or any analogous procedure or step is taken in any jurisdiction,

provided that this subparagraph (iii) shall not apply to any winding-up petition which is frivolous or vexatious and is discharged, stayed or dismissed within 60 days of commencement.

then, and in every such event (other than an event with respect to any Borrower described in clause (f) or (g) of this Article), and at any time thereafter during the continuance of such event, the Administrative Agent may, and at the request of the Required Lenders shall, by notice to the Borrower Representative, take any of the following actions, at the same or different times: (i) terminate the Commitments, and thereupon the Commitments shall terminate immediately, (ii) declare the Loans then outstanding to be due and payable in whole (or in part, in which case any principal not so declared to be due and payable may thereafter be declared to be due and payable), and thereupon the principal of the Loans so declared to be due and payable, together with accrued interest thereon and all fees and other obligations of the Borrowers accrued hereunder, shall become due and payable immediately, without presentment, demand, protest or other notice of any kind, all of which are hereby waived by the Borrowers and (iii) require that the Borrowers deposit in the LC Collateral Account an additional amount in Cash as reasonably requested by the Issuing Bank, (not to exceed **102.0%** of the relevant face amount of Obligations denominated in Dollars and **105.0%** of the relevant face amount of Obligations denominated in Canadian Dollars) of the

then outstanding LC Exposure; provided that upon the occurrence of an event with respect to any Borrower described in clause (f) or (g) of this Article, the Commitments shall automatically terminate and the principal of the Loans then outstanding, together with accrued interest thereon and all fees and other obligations of the Borrowers accrued hereunder, shall automatically become due and payable, without presentment, demand, protest or other notice of any kind, all of which are hereby waived by each Borrower, and the obligation of the Borrowers to cash collateralize the outstanding Letters of Credit as aforesaid shall automatically become effective, in each case without further action of the Administrative Agent or any Lender. Upon the occurrence and the continuance of an Event of Default, the Administrative Agent may, and at the request of the Required Lenders shall, exercise any rights and remedies provided to the Administrative Agent under the Loan Documents or at law or equity, including all remedies provided under the UCC and PPSA.

ARTICLE 8 THE ADMINISTRATIVE AGENT

Each of the Lenders and the Issuing Banks hereby irrevocably appoints Citizens Business Capital, a Division of Citizens Asset Finance, Inc., (or any successor appointed pursuant hereto) as its agent and authorizes the Administrative Agent to take such actions on its behalf, including execution of the other Loan Documents, and to exercise such powers as are delegated to the Administrative Agent by the terms of the Loan Documents, together with such actions and powers as are reasonably incidental thereto.

Any Person serving as Administrative Agent hereunder shall have the same rights and powers in its capacity as a Lender as any other Lender and may exercise the same as though it were not the Administrative Agent and the term "Lender" or "Lenders" shall, unless otherwise expressly indicated, unless the context otherwise requires or unless such Person is in fact not a Lender, include each Person serving as Administrative Agent or Issuing Bank hereunder in its individual capacity. Such Person and its Affiliates may accept deposits from, lend money to, act as the financial advisor or in any other advisory capacity for and generally engage in any kind of business with the Loan Parties or any subsidiary of a Loan Party or other Affiliate thereof as if it were not the Administrative Agent hereunder. The Lenders acknowledge that, pursuant to such activities, the Administrative Agent or its Affiliates may receive information regarding any Loan Party or any of its Affiliates (including information that may be subject to confidentiality obligations in favor of such Loan Party or such Affiliate) and acknowledge that the Administrative Agent shall not be under any obligation to provide such information to them.

For greater certainty, and without limiting the powers of the Administrative Agent, for the purposes of holding any hypothec granted to the Attorney (as defined below) pursuant to the laws of the Province of Québec to secure the prompt payment and performance of any and all Obligations by any Loan Party, each of the Secured Parties hereby irrevocably appoints and authorizes the Administrative Agent and, to the extent necessary, ratifies the appointment and authorization of the Administrative Agent, to act as the hypothecary representative of the creditors as contemplated under Article 2692 of the Civil Code of Québec (in such capacity, the "**Attorney**"), and to enter into, to take and to hold on their behalf, and for their benefit, any hypothec, and to exercise such powers and duties that are conferred upon the Attorney under any related deed of hypothec. The Attorney shall: (a) have the sole and exclusive right and authority to exercise, except as may be otherwise specifically restricted by the terms hereof, all rights and remedies given to the Attorney pursuant to any such deed of hypothec and applicable law, and (b) benefit from and be subject to all provisions hereof with respect to the Administrative Agent *mutatis mutandis*, including, without limitation, all such provisions with respect to the liability or responsibility to and indemnification by the Secured Parties and Loan Parties. Any Person who becomes a Secured Party shall, by its execution of an Assignment and Assumption, be deemed to have consented to and confirmed the Attorney as the person acting as hypothecary representative holding the aforesaid hypothecs as aforesaid and to have ratified, as of the date it becomes a Secured Party, all actions taken by the Attorney

in such capacity. The substitution of the Administrative Agent pursuant to the provisions of this Article 8 also constitute the substitution of the Attorney.

The Administrative Agent shall not have any duties or obligations except those expressly set forth in the Loan Documents. Without limiting the generality of the foregoing, (a) the Administrative Agent shall not be subject to any fiduciary or other implied duties, regardless of whether a Default or Event of Default has occurred and is continuing and without limiting the generality of the foregoing, the use of the term "agent" herein and in the other Loan Documents with reference to the Administrative Agent is not intended to connote any fiduciary or other implied (or express) obligations arising under agency doctrine of any applicable law and instead, such term is used merely as a matter of market custom, and is intended to create or reflect only an administrative relationship between independent contracting parties, (b) the Administrative Agent shall not have any duty to take any discretionary action or exercise any discretionary powers, except discretionary rights and powers expressly contemplated by the Loan Documents that the Administrative Agent is required to exercise in writing as directed by the Required Lenders (or such other number or percentage of the Lenders as shall be necessary under the circumstances as provided in Section 9.02); provided that the Administrative Agent shall not be required to take any action that, in its opinion or the opinion of its counsel, may expose the Administrative Agent to liability or that is contrary to any Loan Document or applicable laws, and (c) except as expressly set forth in the Loan Documents, the Administrative Agent shall not have any duty to disclose, and shall not be liable for the failure to disclose, any information relating to any Loan Party or any of its Subsidiaries that is communicated to or obtained by the Person serving as Administrative Agent or any of its Affiliates in any capacity. The Administrative Agent shall not be liable for any action taken or not taken by it with the consent or at the request of the Required Lenders (or such other number or percentage of the Lenders as shall be necessary, or as the Administrative Agent shall believe in good faith shall be necessary, under the circumstances as provided in Section 9.02) or in the absence of its own gross negligence or willful misconduct as determined by the final judgment of a court of competent jurisdiction, in connection with its duties expressly set forth herein. The Administrative Agent shall not be deemed to have knowledge of any Default or Event of Default unless and until written notice thereof is given to the Administrative Agent by the Borrower Representative or any Lender, and the Administrative Agent shall not be responsible for or have any duty to ascertain or inquire into (i) any statement, warranty or representation made in or in connection with any Loan Document, (ii) the contents of any certificate, report or other document delivered hereunder or in connection with any Loan Document, (iii) the performance or observance of any of the covenants, agreements or other terms or conditions set forth in any Loan Document or the occurrence of any Default or Event of Default, (iv) the validity, enforceability, effectiveness or genuineness of any Loan Document or any other agreement, instrument or document, (v) the creation, perfection or priority of Liens on the Collateral or the existence, value or sufficiency of the Collateral, (vi) the satisfaction of any condition set forth in Article 4 or elsewhere in any Loan Document, other than to confirm receipt of items expressly required to be delivered to the Administrative Agent or (vii) the properties, books or records of any Loan Party or any Affiliate thereof.

If any Lender acquires knowledge of a Default or Event of Default, it shall promptly notify the Administrative Agent and the other Lenders thereof in writing. Each Lender agrees that, except with the written consent of the Administrative Agent, it will not take any enforcement action hereunder or under any other Loan Document, accelerate the Obligations under any Loan Document, or exercise any right that it might otherwise have under applicable law or otherwise to credit bid at foreclosure sales, UCC sales, any sale under Section 363 of the Bankruptcy Code or other Debtor Relief Laws or other similar dispositions of Collateral. Notwithstanding the foregoing, however, a Lender may take action to preserve or enforce its rights against a Loan Party where a deadline or limitation period is applicable that would, absent such action, bar enforcement of the Obligations held by such Lender, including the filing of proofs of claim in a case under the Debtor Relief Laws.

Notwithstanding anything to the contrary contained herein or in any of the other Loan Documents, the Borrowers, the Administrative Agent and each Secured Party agree that (i) no Secured Party shall have any right individually to realize upon any of the Collateral or to enforce the Loan Guaranty, it being understood and agreed that all powers, rights and remedies hereunder may be exercised solely by the Administrative Agent, on behalf of the Secured Parties in accordance with the terms hereof and all powers, rights and remedies under the other Loan Documents may be exercised solely by the Administrative Agent, and (ii) in the event of a foreclosure by the Administrative Agent on any of the Collateral pursuant to a public or private sale or in the event of any other disposition (including pursuant to Section 363 of the Bankruptcy Code or other Debtor Relief Laws), (A) the Administrative Agent, as agent for and representative of the Secured Parties, shall be entitled, for the purpose of bidding and making settlement or payment of the purchase price for all or any portion of the Collateral sold at any such sale, to use and apply any of the Obligations as a credit on account of the purchase price for any collateral payable by the Administrative Agent at such sale or other disposition and (B) Administrative Agent or any Lender may be the purchaser or licensor of any or all of such Collateral at any such sale or other disposition.

No holder of Secured Hedging Obligations or Banking Services Obligations shall have any rights in connection with the management or release of any Collateral or of the obligations of any Loan Guarantor under this Agreement.

Each of the Lenders hereby irrevocably authorizes (and by entering into a Hedge Agreement with respect to Secured Hedging Obligations and/or by entering into documentation in connection with Banking Services Obligations, each of the other Secured Parties hereby authorizes and shall be deemed to authorize) the Administrative Agent, on behalf of all Secured Parties to take any of the following actions upon the instruction of the Required Lenders:

(a) consent to the sale or other disposition of all or any portion of the Collateral free and clear of the Liens securing the Secured Obligations in connection with any such sale or other transfer pursuant to the applicable provisions of Debtor Relief Laws, including Section 363 of the Bankruptcy Code;

(b) credit bid all or any portion of the Secured Obligations, or purchase all or any portion of the Collateral, (in each case, either directly or through one or more acquisition vehicles) in connection with any sale or other disposition of all or any portion of the Collateral pursuant to the applicable provisions of the PPSA and UCC, including pursuant to Sections 9-610 and 9-620 of the UCC;

(c) credit bid all or any portion of the Secured Obligations, or purchase all or any portion of the Collateral, (in each case, either directly or through one or more acquisition vehicles) in connection with any sale, foreclosure or other disposition conducted in accordance with applicable law following the occurrence of an Event of Default, including by power of sale, judicial action or otherwise; and/or

(d) estimate the amount of any contingent or unliquidated Secured Obligations of such Lender or other Secured Party;

it being understood that no Lender shall be required to fund any amounts in connection with any purchase of all or any portion of the Collateral by the Administrative Agent pursuant to the foregoing clause (b), (c) or (d) without its prior written consent.

Each Lender and other Secured Party agrees that the Administrative Agent is under no obligation to credit bid any part of the Secured Obligations or to purchase or retain or acquire any portion of the

Collateral; provided that, in connection with any credit bid or purchase under clause (b), (c) or (d) of the preceding paragraph, the Secured Obligations owed to all of the Secured Parties (other than with respect to contingent or unliquidated liabilities as set forth in the next succeeding paragraph) shall be entitled to be, and shall be, credit bid by the Administrative Agent on a ratable basis.

With respect to each contingent or unliquidated claim that is a Secured Obligation, the Administrative Agent is hereby authorized, but is not required, to estimate the amount of any such claim for purposes of the credit bid or purchase so long as the fixing or liquidation of such claim would not unduly delay the ability of the Administrative Agent to credit bid the Secured Obligations or purchase the Collateral at such sale or other disposition. In the event that the Administrative Agent, in its sole and absolute discretion, elects not to estimate any such contingent or unliquidated claim or any such claim cannot be estimated without unduly delaying the ability of the Administrative Agent to credit bid or purchase in accordance with the second preceding paragraph, then those of the contingent or unliquidated claims not so estimated shall be disregarded, shall not be credit bid, and shall not be entitled to any interest in the portion or the entirety of the Collateral purchased by means of such credit bid.

Each Secured Party whose Secured Obligations are credit bid under clause (b), (c) or (d) of the third preceding paragraph shall be entitled to receive interests in the Collateral or other asset or assets acquired in connection with such credit bid (or in the Capital Stock of the acquisition vehicle or vehicles that are used to consummate such acquisition) on a ratable basis in accordance with the percentage obtained by dividing (x) the amount of the Secured Obligations of such Secured Party that were credit bid in such credit bid, sale or other disposition, by (y) the aggregate amount of all Secured Obligations that were credit bid in such credit bid, sale or other disposition.

In addition, in case of the pendency of any proceeding under any Debtor Relief Law or any other judicial proceeding relative to any Loan Party, each Secured Party agrees that the Administrative Agent (irrespective of whether the principal of any Loan or LC Exposure shall then be due and payable as herein expressed or by declaration or otherwise and irrespective of whether the Administrative Agent shall have made any demand on any Borrower) shall be entitled and empowered, by intervention in such proceeding or otherwise:

(a) to file and prove a claim for the whole amount of the principal and interest owing and unpaid in respect of the Loans, LC Exposure and all other Obligations that are owing and unpaid and to file such other documents as may be necessary or advisable in order to have the claims of the Lenders, the Issuing Banks and the Administrative Agent (including any claim for the reasonable compensation, expenses, disbursements and advances of the Lenders, the Issuing Banks and the Administrative Agent and their respective agents and counsel and all other amounts to the extent due to the Lenders, the Issuing Banks and the Administrative Agent under Sections 2.12 and 9.03) allowed in such judicial proceeding;

(b) to collect and receive any monies or other property payable or deliverable on any such claims and to distribute the same; and

(c) any custodian, receiver, receiver and manager, assignee, trustee, liquidator, sequestrator or other similar official in any such judicial proceeding is hereby authorized by each Lender and Issuing Bank to make such payments to the Administrative Agent and, in the event that the Administrative Agent shall consent to the making of such payments directly to the Lenders and the Issuing Banks, to pay to the Administrative Agent any amount due for the reasonable compensation, expenses, disbursements and advances of the Administrative Agent and its agents and counsel, and any other amount to the extent due to the Administrative Agent under Sections 2.12 and 9.03.

Nothing contained herein shall be deemed to authorize the Administrative Agent to authorize or consent to or accept or adopt on behalf of any Lender or any Issuing Bank any plan of reorganization, arrangement, adjustment or composition affecting the Obligations or the rights of any Lender or any Issuing Bank or to authorize the Administrative Agent to vote in respect of the claim of any Lender or any Issuing Bank in any such proceeding.

The Administrative Agent shall be entitled to rely upon, and shall not incur any liability for relying upon, any notice, request, certificate, consent, statement, instrument, document or other writing (including any electronic message, Internet or intranet website posting or other distribution) believed by it to be genuine and to have been signed, sent or otherwise authenticated by the proper Person. The Administrative Agent also may rely upon any statement made to it orally or by telephone and believed by it to have been made by the proper Person, and shall not incur any liability for relying thereon. In determining compliance with any condition hereunder to the making of a Loan, or the issuance of a Letter of Credit, that by its terms must be fulfilled to the satisfaction of a Lender or the applicable Issuing Bank, the Administrative Agent may presume that such condition is satisfactory to such Lender or such Issuing Bank unless the Administrative Agent shall have received notice to the contrary from such Lender or such Issuing Bank prior to the making of such Loan or the issuance of such Letter of Credit. The Administrative Agent may consult with legal counsel (who may be counsel for the Borrowers), independent accountants and other experts selected by it, and shall not be liable for any action taken or not taken by it in accordance with the advice of any such counsel, accountants or experts.

The Administrative Agent may perform any and all its duties and exercise its rights and powers by or through any one or more sub-agents appointed by the Administrative Agent. The Administrative Agent and any such sub-agent may perform any and all its duties and exercise its rights and powers through their respective Related Parties. The exculpatory provisions of this Article shall apply to any such sub-agent and to the Related Parties of the Administrative Agent and any such sub-agent, and shall apply to their respective activities in connection with the syndication of the credit facilities provided for herein as well as activities as the Administrative Agent.

The Administrative Agent may resign at any time by giving **ten (10)** days prior written notice to the Lenders, the Issuing Banks and the Borrower Representative. If the Administrative Agent is a Defaulting Lender or an Affiliate of a Defaulting Lender, either the Required Lenders or the Borrower Representative may, upon **ten (10)** days' notice, remove the Administrative Agent. Upon receipt of any such notice of resignation or delivery of such removal notice, the Required Lenders shall have the right, with the consent of the Borrower Representative (not to be unreasonably withheld or delayed if such proposed successor Administrative Agent is a commercial bank with an office in the United States having combined capital and surplus in excess of **$5,000,000,000**, and otherwise which may be withheld in the Borrower Representative's sole discretion), to appoint a successor Administrative Agent; provided that during the existence and continuation of an Event of Default under Section 7.01(a) or, with respect to any Borrower, Section 7.01(f) or (g), no consent of the Borrower Representative shall be required; provided, further, that in no event shall a Disqualified Institution be the successor Administrative Agent. If no successor shall have been so appointed as provided above and shall have accepted such appointment within **thirty (30)** days after the retiring Administrative Agent gives notice of its resignation, then (a) in the case of a retirement, the retiring Administrative Agent may (but shall not be obligated to), on behalf of the Lenders and the Issuing Banks, appoint a successor Administrative Agent meeting the qualifications set forth above or (b) in the case of a removal, the Borrower Representative may, after consulting with the Required Lenders, appoint a successor Administrative Agent meeting the qualifications set forth above; provided that (x) in the case of a retirement, if such Administrative Agent shall notify the Borrower Representative and the Lenders that no qualifying Person has accepted such appointment or (y) in the case of a removal, the Borrower Representative notifies the Required Lenders that no qualifying Person has accepted such appointment, then, in each case, such resignation or removal shall nonetheless become

effective in accordance with such notice and (i) the retiring or removed Administrative Agent shall be discharged from its duties and obligations hereunder and under the other Loan Documents and (ii) all payments, communications and determinations provided to be made by, to or through the Administrative Agent shall instead be made by or to each Lender and each Issuing Bank directly (and each Lender and each Issuing Bank will cooperate with the Borrower Representative to enable the Borrower Representative to take such actions), until such time as the Required Lenders or the Borrower Representative, as applicable, appoint a successor Administrative Agent, as provided for above in this Article 8. Upon the acceptance of its appointment as Administrative Agent hereunder by a successor, such successor shall succeed to and become vested with all the rights, powers, privileges and duties of the retiring Administrative Agent (other than any rights to indemnity payments owed to the retiring Administrative Agent), and the retiring Administrative Agent shall be discharged from its duties and obligations hereunder. The fees payable by the Borrowers to a successor Administrative Agent shall be the same as those payable to its predecessor unless otherwise agreed between the Borrower Representative and such successor. After the Administrative Agent's resignation hereunder, the provisions of this Article 8 and Section 9.03 shall continue in effect for the benefit of such retiring Administrative Agent, its sub-agents and their respective Related Parties in respect of any actions taken or omitted to be taken by any of them while it was acting as Administrative Agent.

Each Lender and each Issuing Bank acknowledges that it has, independently and without reliance upon either Administrative Agent or any other Lender or any of their Related Parties and based on such documents and information as it has deemed appropriate, made its own credit analysis and decision to enter into this Agreement. Each Lender and each Issuing Bank also acknowledges that it will, independently and without reliance upon either Administrative Agent or any other Lender or any of their Related Parties and based on such documents and information as it shall from time to time deem appropriate, continue to make its own decisions in taking or not taking action under or based upon this Agreement, any other Loan Document or related agreement or any document furnished hereunder or thereunder. Except for notices, reports and other documents expressly required to be furnished to the Lenders by the Administrative Agent herein, the Administrative Agent shall not have any duty or responsibility to provide any Lender with any credit or other information concerning the business, prospects, operations, property, financial and other condition or creditworthiness of any of the Loan Parties or any of their respective Affiliates which may come into the possession of the Administrative Agent or any of its Related Parties.

Each Lender hereby agrees that (a) it has requested a copy of each Report prepared by or on behalf of the Administrative Agent; (b) the Administrative Agent (i) makes no representation or warranty, express or implied, as to the completeness or accuracy of any Report or any of the information contained therein or any inaccuracy or omission contained in or relating to a Report and (ii) shall not be liable for any information contained in any Report; (c) the Reports are not comprehensive audits or examinations, and that any Person performing any field examination will inspect only specific information regarding the Loan Parties and will rely significantly upon the Loan Parties' books and records, as well as on representations of the Loan Parties' personnel and that the Administrative Agent undertakes no obligation to update, correct or supplement the Reports; (d) it will keep all Reports confidential and strictly for its internal use, not share the Report with any Loan Party or any other Person except as otherwise permitted pursuant to this Agreement; and (e) without limiting the generality of any other indemnification provision contained in this Agreement, it will pay and protect, and indemnify, defend, and hold the Administrative Agent and any such other Person preparing a Report harmless from and against, the claims, actions, proceedings, damages, costs, expenses, and other amounts (including reasonable attorneys' fees) incurred by either Administrative Agent or such other Person as the direct or indirect result of any third parties who might obtain all or part of any Report through the indemnifying Lender.

Anything herein to the contrary notwithstanding, the Arranger and the bookrunner shall not have any right, power, obligation, liability, responsibility or duty under this Agreement, except in their respective capacities, as applicable, as the Administrative Agent, an Issuing Bank or a Lender hereunder.

Each of the Lenders and the Issuing Banks irrevocably authorize and instruct the Administrative Agent to, and the Administrative Agent (as applicable) shall,

(a) release any Lien on any property granted to or held by Administrative Agent under any Loan Document (i) upon the occurrence of the Termination Date, (ii) that is sold or to be sold or transferred as part of or in connection with any sale or other transfer permitted under the Loan Documents to a Person that is not a Loan Party, (iii) that does not constitute (or ceases to constitute) Collateral, (iv) if the property subject to such Lien is owned by a Subsidiary Guarantor, upon the release of such Subsidiary Guarantor from its Loan Guaranty otherwise in accordance with the Loan Documents or (v) if approved, authorized or ratified in writing by the Required Lenders in accordance with Section 9.02;

(b) release any Subsidiary Guarantor from its obligations under the Loan Guaranty if such Person ceases to be a Subsidiary (or becomes an Excluded Subsidiary) as a result of a single transaction or related series of transactions permitted hereunder (this clause (b), together with clause (a) above, collectively, the "**Release Provisions**");

(c) subordinate any Lien on any property granted to or held by the Administrative Agent under any Loan Document to the holder of any Lien on such property that is permitted hereunder; and

(d) enter into subordination, intercreditor and/or similar agreements with respect to Indebtedness that is (i) required or permitted to be subordinated hereunder and/or (ii) secured by Liens, and which Indebtedness contemplates an intercreditor, subordination or collateral trust agreement under Section 6.02(l), Section 6.02(n), Section 6.02(o), Section 6.02(t) and, solely to the extent such Liens do not secure any Indebtedness for borrowed money (other than Indebtedness under the Senior Notes, so long as such Indebtedness remains subject to the Intercreditor Agreement), Section 6.02(u).

Upon request by the Administrative Agent at any time, the Required Lenders will confirm in writing the Administrative Agent's authority to release or subordinate its interest in particular types or items of property, or to release any Loan Guarantor from its obligations under the Loan Guaranty pursuant to this Article 8 and Section 10.13 hereunder. In each case as specified in this Article 8, each Agent will (and each Lender hereby authorizes the Administrative Agent to), at the Borrowers' expense, execute and deliver to the applicable Loan Party such documents as such Loan Party may reasonably request to evidence the release of such item of Collateral from the assignment and security interest granted under the Collateral Documents or to subordinate its interest in such item, or to release such Loan Guarantor from its obligations under the Loan Guaranty, in each case in accordance with the terms of the Loan Documents and this Article 8.

The Administrative Agent is authorized to enter into the Intercreditor Agreement (including as provided in Section 9.20) and any other intercreditor agreement contemplated hereby with respect to Indebtedness that is (i) required or permitted to be subordinated hereunder and/or (ii) secured by Liens and which Indebtedness contemplates an intercreditor, subordination or collateral trust agreement (any such other intercreditor agreement, an "**Additional Agreement**"), and the parties hereto acknowledge that the Intercreditor Agreement and any Additional Agreement is binding upon them. Each Lender (a) hereby consents to the subordination of the Liens on the Collateral other than the Revolving Collateral securing the Secured Obligations on the terms set forth in the Intercreditor Agreement, (b) hereby agrees

that it will be bound by and will take no actions contrary to the provisions of the Intercreditor Agreement or any Additional Agreement and (c) hereby authorizes and instructs the Administrative Agent to enter into the Intercreditor Agreement or any Additional Agreement and to subject the Liens on the Collateral securing the Secured Obligations to the provisions thereof. The foregoing provisions are intended as an inducement to the Secured Parties to extend credit to the Borrowers and such Secured Parties are intended third-party beneficiaries of such provisions and the provisions of the Intercreditor Agreement and/or any Additional Agreement.

To the extent the Administrative Agent or any Issuing Bank (or any of their respective affiliates) is not reimbursed and indemnified by the Borrowers, the Lenders will reimburse and indemnify the Administrative Agent and such Issuing Bank (and any of their respective affiliates) in proportion to their respective Applicable Percentage (determined as if there were no Defaulting Lenders) for and against any and all liabilities, obligations, losses, damages, penalties, claims, actions, judgments, costs, expenses or disbursements of whatsoever kind or nature which may be imposed on, asserted against or incurred by the Administrative Agent or such Issuing Bank (or any of their respective affiliates) in performing its duties hereunder or under any other Loan Document or in any way relating to or arising out of this Agreement or any other Loan Document; provided that no Lender shall be liable for any portion of such liabilities, obligations, losses, damages, penalties, claims, actions, judgments, suits, costs, expenses or disbursements resulting from the Administrative Agent's or such Issuing Bank's (or such respective affiliate's) gross negligence or willful misconduct (as determined by a court of competent jurisdiction in a final and non-appealable decision).

ARTICLE 9 MISCELLANEOUS

Section 9.01 Notices.

(a) Except in the case of notices and other communications expressly permitted to be given by telephone (and subject to paragraph (b) below), all notices and other communications provided for herein shall be in writing and shall be delivered by hand or overnight courier service, mailed by certified or registered mail or sent by facsimile or email, as follows:

(i) if to any Loan Party, to the Borrower Representative at:

The Rockport Group, LLC
1895 J.W. Foster Blvd.
Canton, MA 02021
Attn: Annica Forsberg
Tel.: (781) 401-5275
Fax: (781) 401-5760
Email: annica.forsberg@rockport.com

with copies to:

Berkshire Partners LLC
200 Clarendon Street, 35th Floor
Boston, Massachusetts 02116
Attn: General Counsel
Fax: (617) 227-6105
Email: sheslam@berkshirepartners.com

and

Goodwin Procter LLP
Exchange Place
53 State Street
Boston, Massachusetts 02109
Attn: E. Matson Sibble
Fax: (617) 570-1480
Email: emsibble@goodwinprocter.com

(ii) if to the Administrative Agent, at:

Citizens Business Capital
28 State Street
Boston, Massachusetts 02109
Attn: Michael J. Ganann
Fax: (617) 994-7063
Email: michael.ganann@citizensbank.com

with a copy to:

Jones Day
222 East 41st Street
New York, New York 10017-6702
Attn: John D. Casais, Esq.
Tel.: (617) 449-6902
Fax: (617) 449-6999
Email: jcasais@jonesday.com

(iii) if to any other Lender, to it at its address or facsimile number set forth in its Administrative Questionnaire.

All such notices and other communications (A) sent by hand or overnight courier service, or mailed by certified or registered mail, shall be deemed to have been given when delivered in person or by courier service and signed for against receipt thereof or **three (3)** Business Days after dispatch if sent by certified or registered mail, in each case, delivered, sent or mailed (properly addressed) to such party as provided in this Section 9.01 or in accordance with the latest unrevoked direction from such party given in accordance with this Section 9.01 or (B) sent by facsimile shall be deemed to have been given when sent and when receipt has been confirmed by telephone; provided that received notices and other communications sent by telecopier shall be deemed to have been given when sent (except that, if not given during normal business hours for the recipient, shall be deemed to have been given at the opening of business on the next Business Day for the recipient). Notices and other communications delivered through electronic communications to the extent provided in clause (b) below shall be effective as provided in such clause (b).

(b) Notices and other communications to the Lenders hereunder may be delivered or furnished by electronic communications (including e-mail and Internet or Intranet websites) pursuant to procedures set forth herein or otherwise approved by the Administrative Agent. The Administrative Agent or the Borrower Representative (on behalf of the Loan Parties) may, in its discretion, agree to accept notices and other communications to it hereunder by electronic communications pursuant to procedures set forth herein or otherwise approved by it; provided that approval of such procedures may be limited to particular notices or communications. All such notices and other communications (i) sent to an e-mail address shall be deemed received upon the sender's receipt of an acknowledgement from the

intended recipient (such as by the "return receipt requested" function, as available, return e-mail or other written acknowledgement); provided that if not given during the normal business hours of the recipient, such notice or communication shall be deemed to have been given at the opening of business on the next Business Day for the recipient, and (ii) posted to an Internet or Intranet website shall be deemed received upon the deemed receipt by the intended recipient at its e-mail address as described in the foregoing clause (b)(i) of notification that such notice or communication is available and identifying the website address therefor.

(c) Any party hereto may change its address or facsimile number for notices and other communications hereunder by notice to the other parties hereto.

Section 9.02 Waivers; Amendments.

(a) No failure or delay by the Administrative Agent, any Issuing Bank or any Lender in exercising any right or power hereunder or under any other Loan Document shall operate as a waiver thereof, nor shall any single or partial exercise of any such right or power, or any abandonment or discontinuance of steps to enforce such a right or power, preclude any other or further exercise thereof or the exercise of any other right or power. The rights and remedies of the Administrative Agent, the Issuing Banks and the Lenders hereunder and under any other Loan Document are cumulative and are not exclusive of any rights or remedies that they would otherwise have. No waiver of any provision of any Loan Document or consent to any departure by any Loan Party therefrom shall in any event be effective unless the same shall be permitted by paragraph (b) of this Section, and then such waiver or consent shall be effective only in the specific instance and for the purpose for which given. Without limiting the generality of the foregoing, to the extent permitted by law, the making of a Loan or issuance of a Letter of Credit shall not be construed as a waiver of any Default or Event of Default, regardless of whether the Administrative Agent, any Lender or Issuing Bank may have had notice or knowledge of such Default or Event of Default at the time.

(b) Subject to clauses (A) and (B) below, neither this Agreement nor any other Loan Document nor any provision hereof or thereof may be waived, amended or modified, except (i) in the case of this Agreement, pursuant to an agreement or agreements in writing entered into by the Borrower Representative and the Required Lenders (or the Administrative Agent with the consent of the Required Lenders) or (ii) in the case of any other Loan Document (other than any such amendment to effectuate any modification thereto expressly contemplated by the terms of such other Loan Documents), pursuant to an agreement or agreements in writing entered into by the Administrative Agent and the Loan Party or Loan Parties that are parties thereto, with the consent of the Required Lenders; provided that, notwithstanding the foregoing:

(A) solely with the consent of each Lender directly and adversely affected thereby (but without the necessity of obtaining the consent of the Required Lenders), any such agreement may;

(1) increase the Commitment of such Lender (other than with respect to any Commitment Increase pursuant to Section 2.23 in respect of which such Lender has agreed to be an Additional Lender); it being understood that no amendment, modification or waiver of, or consent to departure from, any condition precedent, representation, warranty, covenant, Default, Event of Default, mandatory prepayment, mandatory reduction of the Commitments, any modification, waiver or amendment to the financial definitions or financial ratios shall constitute an increase of any Commitment of such Lender;

(2) reduce or forgive the principal amount of any Loan;

(3) extend the scheduled final maturity of any Loan, extend the stated expiration date of any Letter of Credit beyond the date specified in Section 2.06(c) or postpone the date of any scheduled payment of interest or fees payable hereunder;

(4) reduce the rate of interest (other than to waive any obligations of applicable Borrower to pay interest at the default rate of interest under Section 2.13(e)) or the amount of any fees owed to such Lender (it being understood that any change in the definition of "Average Historical Excess Availability" used in the calculations of such interest or fees (or the component definitions) shall not constitute a reduction in any rate of interest or fees);

(5) extend the expiry date of such Lender's Commitment; it being understood that no amendment, modification or waiver of, or consent to departure from, any condition precedent, representation, warranty, covenant, Default, Event of Default, mandatory prepayment or mandatory reduction of the Commitments, any modification, waiver or amendment to the financial definitions or financial ratios shall constitute an extension of any Commitment of such Lender; or

(6) amend or modify the provisions of Sections 2.11(c), 2.18(a) (with respect to *pro rata* allocation among Lenders), 2.18(b) and 2.18(c) of this Agreement in a manner that would by its terms alter the order of payments or the *pro rata* sharing of payments required thereby (except as otherwise provided in this Section 9.02); and

(B) no such agreement shall:

(1) change any of the provisions of this Section or the definitions of "Required Lenders" to reduce any of the voting percentages required to waive, amend or modify any rights thereunder or make any determination or grant any consent thereunder, without the consent of each Lender;

(2) release all or substantially all of the Collateral (except as otherwise permitted herein or in the other Loan Documents, including pursuant to Article 8 or Section 10.13 hereof), without the prior written consent of each Lender; or

(3) release all or substantially all of the value of the Loan Guaranty (except as otherwise permitted herein or in the other Loan Documents, including pursuant to Section 10.13 hereof), without the prior written consent of each Lender;

(4) enter into an amendment or waiver the effect of which would be to increase the percentages set forth in the definitions of "Credit Card Receivables Component," "Trade Accounts Receivable Component" and/or "Inventory Component" without the consent of the Required Lenders; or

(5) change the definition of the term "Borrowing Base" or any component definition of any of the foregoing (including the definitions of "Eligible Trade Accounts Receivable," "Eligible Credit Card Receivables" or "Eligible

Inventory"), the effect of which would be to increase amounts available to be borrowed, without the consent of the Required Lenders;

provided, further, that no such agreement shall amend, modify or otherwise affect the rights or duties of the Administrative Agent, any Issuing Bank or the Swingline Lender hereunder without the prior written consent of the Administrative Agent, such Issuing Bank or the Swingline Lender, as the case may be. The Administrative Agent may also amend the Commitment Schedule to reflect assignments entered into pursuant to Section 9.04. Notwithstanding anything to the contrary herein, no Defaulting Lender shall have any right to approve or disapprove any amendment, waiver or consent hereunder, except that the Commitment of such Lender may not be increased without the consent of such Lender (it being understood that any Commitment or Loan held or deemed held by any Defaulting Lender shall be excluded from a vote of the Lenders hereunder requiring any consent of the Lenders, except as provided in Section 2.22(b)).

(c) Notwithstanding anything to the contrary contained in this Section 9.02 or any other provision of this Agreement or any other Loan Document, (i) guarantees, collateral security agreements, pledge agreements and related documents (if any) executed by the Loan Parties in connection with this Agreement may be in a form reasonably determined by the Administrative Agent and may be amended, supplemented and/or waived with the consent of the Administrative Agent at the request of the Borrower Representative without the input or need to obtain the consent of any other Lenders to (x) comply with local law or advice of local counsel or (y) to cause such guarantees, collateral security agreements, pledge agreement or other document to be consistent with this Agreement and the other Loan Documents, (ii) the Borrower Representative and the Administrative Agent may, without the input or consent of any other Lender (other than, in the case of Section 2.23, each applicable Additional Lender), effect amendments to this Agreement and the other Loan Documents as may be necessary in the reasonable opinion of the Borrower Representative and the Administrative Agent to effect the provisions of Section 2.22, 2.23, 2.25 or 9.02(c) (or any other provision specifying that any waiver, amendment or modification may be made with the consent or approval of the Administrative Agent), (iii) if the Administrative Agent and the Borrower Representative have jointly identified any ambiguity, mistake, defect, inconsistency, obvious error or any error or omission of a technical nature or any necessary or desirable technical change, in each case, in any provision of the Loan Documents, then the Administrative Agent and the Borrower Representative shall be permitted to amend such provision solely to address such matter as reasonably determined by them acting jointly if not objected to in writing by the Required Lenders to the Administrative Agent within **five (5)** Business Days following receipt of notice thereof and (iv) the Administrative Agent and the Borrower Representative may amend, restate, amend and restate or otherwise modify the Intercreditor Agreement in the manner set forth therein.

Section 9.03 Expenses; Indemnity; Damage Waiver.

(a) The Borrowers shall pay (i) all reasonable and documented out-of-pocket expenses incurred by each Arranger, the Administrative Agent and their respective Affiliates (but limited, in the case of legal fees and expenses, to the actual reasonable and documented out-of-pocket fees, disbursements and other charges of one firm of outside counsel to all such persons taken as a whole and, if necessary, of one local counsel in any relevant material jurisdiction to such Persons, taken as a whole) in connection with the syndication and distribution (including via the Internet or through a service such as Intralinks) of the Credit Facility, the preparation, execution, delivery and administration of the Loan Documents and related documentation, including in connection with any amendments, modifications or waivers of the provisions of any Loan Documents (whether or not the transactions contemplated thereby shall be consummated, but only to the extent such amendments, modifications or waivers were requested by the Borrower Representative to be prepared) and (ii) all reasonable and documented out-of-pocket expenses incurred by the Administrative Agent, the Arranger, the Issuing Banks or the Lenders and each

of their respective Affiliates (but limited, in the case of legal fees and expenses, to the actual reasonable and documented out-of-pocket fees, disbursements and other charges of one firm of outside counsel to all such persons taken as a whole and, if necessary, of one local counsel in any relevant material jurisdiction to such persons, taken as a whole) in connection with the enforcement, collection or protection of each of their rights in connection with the Loan Documents, including each of their rights under this Section, or in connection with the Loans made and/or Letters of Credit issued hereunder. Expenses reimbursable by the Borrowers under this Section include, subject to any other applicable provision of any Loan Document, reasonable and documented out-of-pocket costs and expenses incurred by or on behalf of the Administrative Agent in connection with: (A) appraisals and field examinations and the preparation of Reports based thereon, (B) the fees charged by a third party retained by the Administrative Agent or (notwithstanding any reference to "out-of-pocket" above in this Section 9.03) the internally allocated fees for each Person employed by the Administrative Agent with respect to each field examination, (C) lien and title searches and title insurance, (D) taxes, fees and other charges for recording the Mortgages, filing financing statements and continuations, and other actions to perfect, protect, and continue the Administrative Agent's Liens and (E) forwarding loan proceeds and costs and expenses of preserving and protecting the Collateral. Other than to the extent required to be paid on the Closing Date, all amounts due under this paragraph (a) shall be payable by the Borrowers within **thirty (30)** days of receipt of an invoice relating thereto, setting forth such expenses in reasonable detail and together with backup documentation supporting such reimbursement requests.

(b) The Borrowers shall, jointly and severally, indemnify each Arranger, the Administrative Agent, each Issuing Bank and each Lender, and each Related Party of any of the foregoing Persons (each such Person being called an "**Indemnitee**") against, and hold each Indemnitee harmless from, any and all losses, claims, damages, liabilities and related expenses (but limited, in the case of legal fees and expenses, to the actual reasonable and documented out-of-pocket fees, disbursements and other charges of one counsel to all Indemnitees taken as a whole and, solely in the case of a conflict of interest, one additional counsel to all affected Indemnitees, taken as a whole, and, if reasonably necessary, one local counsel in any relevant material jurisdiction to all Indemnitees, taken as a whole and, solely in the case of an actual or potential conflict of interest, one additional local counsel to all affected Indemnitees, taken as a whole), incurred by or asserted against any Indemnitee arising out of, in connection with, or as a result of (i) the execution or delivery of the Loan Documents or any agreement or instrument contemplated thereby, the performance by the parties hereto of their respective obligations thereunder or the consummation of the Transactions or any other transactions contemplated hereby or thereby (except for any Taxes, other than any Taxes that represent losses, claims, damages, etc. arising from any non-Tax claim), (ii) the use of the proceeds of the Loans or any Letter of Credit or (iii) any actual or prospective claim, litigation, investigation or proceeding relating to any of the foregoing, whether based on contract, tort or any other theory and regardless of whether any Indemnitee is a party thereto (and regardless of whether such matter is initiated by a third party or by any Borrower, any other Loan Party or any of their respective Affiliates); provided that such indemnity shall not, as to any Indemnitee, be available to the extent that such losses, claims, damages, liabilities or related expenses (i) are determined by a court of competent jurisdiction by final and nonappealable judgment to have resulted from the gross negligence, bad faith or willful misconduct of such Indemnitee or of any affiliate of such Indemnitee or, to the extent such judgment finds such losses, claims, damages, liabilities or related expenses to have resulted from such Indemnitee's material breach of the Loan Documents, (ii) arise out of any claim, litigation, investigation or proceeding brought by such Indemnitee (or its Related Parties) against another Indemnitee (or its Related Parties) (other than any claim, litigation, investigation or proceeding brought by or against the Administrative Agent or any Arranger, acting in its capacity as the Administrative Agent or as an Arranger) that does not involve any act or omission of the Sponsor, Holdings, Rockport Group or any of its Subsidiaries or (iii) arise out of any settlement entered into by such Indemnitee without the Borrower Representative's prior written consent, such consent not to be unreasonably withheld or delayed; provided, however, that the foregoing indemnity will apply to any such settlement referred to in

clause (b) above in the event that the Borrower Representative was offered the ability to assume the defense of the action that was the subject matter of such settlement and elected not to assume such defense . Each Indemnitee shall be obligated to refund or return any and all amounts paid by the Borrowers pursuant to this Section 9.03(b) to such Indemnitee for any fees, expenses, or damages to the extent such Indemnitee is not entitled to payment of such amounts in accordance with the terms hereof. All amounts due under this paragraph (b) shall be payable by the Borrowers within **thirty (30)** days (x) after written demand thereof, in the case of any indemnification obligations and (y) in the case of reimbursement of costs and expenses, after receipt of an invoice relating thereto, setting forth such expenses in reasonable detail and together with backup documentation supporting such reimbursement requests.

Section 9.04 Waiver of Claim. To the extent permitted by applicable law, no party to this Agreement shall assert, and each hereby waives, any claim against any other party hereto or any Related Party thereof, on any theory of liability, for special, indirect, consequential or punitive damages (as opposed to direct or actual damages) arising out of, in connection with, or as a result of, this Agreement or any agreement or instrument contemplated hereby, the Transactions, any Loan or Letter of Credit or the use of the proceeds thereof, except, in the case of a claim by any Indemnitee against any of the Borrowers, to the extent such damages would otherwise be subject to indemnification pursuant to the terms of Section 9.03.

Section 9.05 Successors and Assigns.

(a) The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns permitted hereby, *except* that (i) except as provided under Section 6.08, the Borrowers may not assign or otherwise transfer any of their rights or obligations hereunder without the prior written consent of each Lender (and any attempted assignment or transfer by any Borrower without such consent shall be null and void) and (ii) no Lender may assign or otherwise transfer its rights or obligations hereunder except in accordance with this Section (any attempted assignment or transfer not complying with the terms of this Section shall be null and void). Nothing in this Agreement, expressed or implied, shall be construed to confer upon any Person (other than the parties hereto, their respective successors and assigns permitted hereby, Participants (to the extent provided in paragraph (c) of this Section) and, to the extent expressly contemplated hereby, the Related Parties of each of the Arranger, the Administrative Agent, the Issuing Banks and the Lenders) any legal or equitable right, remedy or claim under or by reason of this Agreement. Notwithstanding anything herein to the contrary, no Lender may assign any of its Commitments unless, substantially contemporaneously with such assignment, the Assignee agrees in writing that it is also assuming, subject to the Canadian Sublimit, all or such portion of such Lender's obligations with respect to the Canadian Borrower.

(b) (i) Subject to the conditions set forth in paragraph (b)(ii) below, any Lender may assign to one or more Eligible Assignees all or a portion of its rights and obligations under this Agreement (including all or a portion of its Commitment and the Loans at any time owing to it) with the prior written consent (such consent not to be unreasonably withheld or delayed) of:

(A) the Borrowers; provided that the Borrowers shall have been deemed to have consented to any such assignment unless it shall have objected thereto by written notice to the Administrative Agent within **fifteen (15)** Business Days after the Borrower Representative receiving written notice thereof; provided, further, that no consent of the Borrowers shall be required for an assignment to another Lender, an Affiliate of a Lender, an Approved Fund or, if an Event of Default under Section 7.01(a), (f) or (g) (solely with respect to the Borrowers) has occurred and is continuing, any other Eligible Assignee; and

(B) the Administrative Agent; and

(C) each Issuing Bank.

(ii) Assignments shall be subject to the following additional conditions:

(A) except in the case of an assignment to another Lender, an Affiliate of a Lender or an Approved Fund or an assignment of the entire remaining amount of the assigning Lender's Commitments or Loans of any Class, the amount of the Commitment or the principal amount of Loans of the assigning Lender subject to each such assignment (determined as of the date the Assignment and Assumption with respect to such assignment is delivered to the Administrative Agent and determined on an aggregate basis in the event of concurrent assignments to Related Funds or by Related Funds (as defined below)) shall not be less than **$5,000,000** unless each of the Borrower Representative and the Administrative Agent otherwise consent;

(B) each partial assignment shall be made as an assignment of a proportionate part of all the assigning Lender's rights and obligations under this Agreement (including such Lender's obligations to fund Canadian Borrowings under the Canadian Sublimit;

(C) the parties to each assignment shall execute and deliver to the Administrative Agent an Assignment and Assumption via an electronic settlement system acceptable to the Administrative Agent (or, if previously agreed with the Administrative Agent, manually), and shall pay to the Administrative Agent a processing and recordation fee of **$3,500** (which fee may be waived or reduced in the sole discretion of the Administrative Agent); and

(D) the Eligible Assignee, if it shall not be a Lender, shall deliver on or prior to the effective date of such assignment, to the Administrative Agent (1) an Administrative Questionnaire and (2) any documentation required under Section 2.17.

The term "**Related Funds**" shall mean with respect to any Lender that is an Approved Fund, any other Approved Fund that is managed by the same investment advisor as such Lender or by an Affiliate of such investment advisor.

(iii) Subject to acceptance and recording thereof pursuant to paragraph (b)(iv) of this Section, from and after the effective date specified in each Assignment and Assumption the Eligible Assignee thereunder shall be a party hereto and, to the extent of the interest assigned by such Assignment and Assumption, have the rights and obligations of a Lender under this Agreement, and the assigning Lender thereunder shall, to the extent of the interest assigned by such Assignment and Assumption, be released from its obligations under this Agreement (and, in the case of an Assignment and Assumption covering all of the assigning Lender's rights and obligations under this Agreement, such Lender shall cease to be a party hereto but shall continue to be entitled to the benefits of Sections 2.15, 2.16, 2.17 and 9.03 with respect to facts and circumstances occurring on or prior to the effective date of such assignment and subject to its obligations thereunder and under Section 9.13). If any such assignment by a Lender holding a Promissory Note hereunder occurs after the issuance of any Promissory Note hereunder to such Lender, the assigning Lender shall, upon the effectiveness of such assignment or as promptly thereafter as practicable, surrender such Promissory Note to the Administrative Agent for cancellation, and thereupon the Borrowers shall issue and deliver a new Promissory Note, if so requested by the assignee and/or assigning Lender, to such assignee and/or to such assigning

Lender, with appropriate insertions, to reflect the new Commitments and/or outstanding Loans of the assignee and/or the assigning Lender.

(iv) The Administrative Agent, acting for this purpose as an agent of the Borrowers, shall maintain at one of its U.S. offices a copy of each Assignment and Assumption delivered to it and a register for the recordation of the names and addresses of the Lenders and their respective successors and assigns, and the Commitment of, and principal amounts of and interest on the Loans and LC Disbursements owing to, each Lender pursuant to the terms hereof from time to time (the "**Register**"). Failure to make any such recordation, or any error in such recordation, shall not affect the Borrowers' obligations in respect of such Loans and LC Disbursements. The entries in the Register shall be conclusive, absent manifest error, and the Borrowers, the Administrative Agent, the Issuing Banks and the Lenders shall treat each Person whose name is recorded in the Register pursuant to the terms hereof as a Lender hereunder for all purposes of this Agreement, notwithstanding notice to the contrary. The Register shall be available for inspection by the Borrower Representative, the Issuing Banks and any Lender (but only as to its own holdings), at any reasonable time and from time to time upon reasonable prior notice. This paragraph (iv) shall be construed so that such obligations are at all times maintained in "registered from" within the meaning of Sections 163(f), 871(h)(2) and 881(c)(2) of the Code and any related regulations (and any other relevant or successor provisions of the Code or such regulations).

(v) Upon its receipt of a duly completed Assignment and Assumption executed by an assigning Lender and an Eligible Assignee, the Eligible Assignee's completed Administrative Questionnaire and tax forms and other documentation required by Section 9.05(b)(ii)(D)(2) (unless the assignee shall already be a Lender hereunder), the processing and recordation fee referred to in paragraph (b) of this Section 9.05, if applicable, and any written consent to such assignment required by paragraph (b) of this Section 9.05, the Administrative Agent shall promptly accept such Assignment and Assumption and record the information contained therein in the Register. No assignment shall be effective for purposes of this Agreement unless it has been recorded in the Register as provided in this paragraph.

(vi) By executing and delivering an Assignment and Assumption, the assigning Lender thereunder and the Eligible Assignee thereunder shall be deemed to confirm and agree with each other and the other parties hereto as follows: (A) such assigning Lender warrants that it is the legal and beneficial owner of the interest being assigned thereby free and clear of any adverse claim and that its Commitments, and the outstanding balances of its Revolving Loans, in each case without giving effect to assignments thereof which have not become effective, are as set forth in such Assignment and Assumption; (B) except as set forth in clause (A) above, such assigning Lender makes no representation or warranty and assumes no responsibility with respect to any statements, warranties or representations made in or in connection with this Agreement, or the execution, legality, validity, enforceability, genuineness, sufficiency or value of this Agreement, any other Loan Document or any other instrument or document furnished pursuant hereto, or the financial condition of Rockport Group or any Subsidiary or the performance or observance by Rockport Group or any Subsidiary of any of its obligations under this Agreement, any other Loan Document or any other instrument or document furnished pursuant hereto; (C) such assignee represents and warrants that it is an Eligible Assignee, legally authorized to enter into such Assignment and Assumption; (D) such assignee confirms that it has received a copy of this Agreement and the Intercreditor Agreement, together with copies of the most recent financial statements referred to in Section 3.04(a) or delivered pursuant to Section 5.01 and such other documents and information as it has deemed appropriate to make its own credit analysis and decision to enter into such Assignment and Assumption; (E) such assignee will independently and

without reliance upon the Administrative Agent, such assigning Lender or any other Lender and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit decisions in taking or not taking action under this Agreement; (F) such assignee appoints and authorizes the Administrative Agent to take such action as agent on its behalf and to exercise such powers under this Agreement as are delegated to the Administrative Agent, by the terms hereof, together with such powers as are reasonably incidental thereto; and (G) such assignee agrees that it will perform in accordance with their terms all the obligations which by the terms of this Agreement are required to be performed by it as a Lender.

(c) (i) Any Lender may, without the consent of the Borrower Representative, the Administrative Agent, the Issuing Banks, the Swingline Lender or any other Lender, sell participations to one or more banks or other entities (other than to any Disqualified Institution, any natural Person or the Investors, Holdings, Rockport Group and its Subsidiaries or any of their respective Affiliates) (a "**Participant**") in all or a portion of such Lender's rights and obligations under this Agreement (including all or a portion of its Commitments and the Loans owing to it); provided that (A) such Lender's obligations under this Agreement shall remain unchanged, (B) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations and (C) the Borrower Representative, the Administrative Agent, the Issuing Banks and the other Lenders shall continue to deal solely and directly with such Lender in connection with such Lender's rights and obligations under this Agreement. Any agreement or instrument pursuant to which a Lender sells such a participation shall provide that such Lender shall retain the sole right to enforce this Agreement and to approve any amendment, modification or waiver of any provision of this Agreement; provided that such agreement or instrument may provide that such Lender will not, without the consent of the Participant, agree to any amendment, modification or waiver described in (x) clause (A) to the first proviso to Section 9.02(b) that directly and adversely affects the Loans or Commitments in which such Participant has an interest and (y) clause (B) to the first proviso to Section 9.02(b). Subject to paragraph (c)(ii) of this Section, each Borrower agrees that each Participant shall be entitled to the benefits of Sections 2.15, 2.16 and 2.17 to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to paragraph (b) of this Section. To the extent permitted by law, each Participant also shall be entitled to the benefits of Section 9.09 as though it were a Lender; provided that such Participant agrees to be subject to Section 2.18(c) as though it were a Lender.

(ii) A Participant shall not be entitled to receive any greater payment under Section 2.15, 2.16 or 2.17 than the applicable Lender would have been entitled to receive with respect to the participation sold to such Participant, except to the extent such entitlement to receive a greater payment results from a Change in Law that occurs after the Participant acquired the applicable participation or unless the sale of the participation to such Participant is made with the Borrower Representative's prior written consent. A Participant that would be a Foreign Lender if it were a Lender shall not be entitled to the benefits of Section 2.17 unless the Borrower Representative is notified of the participation sold to such Participant and such Participant agrees, for the benefit of the Borrowers, to comply with Section 2.17(f) as though it were a Lender.

Each Lender that sells a participation shall, acting for this purpose as a non-fiduciary agent of the Borrowers, maintain at one of its offices a copy of a register for the recordation of the names and addresses of each Participant and their respective successors and assigns, and principal amounts of and interest on the Loans (the "**Participant Register**"). The entries in the Participant Register shall be conclusive, absent manifest error, and such Lender may treat each Person whose name is recorded in the Participant Register pursuant to the terms hereof as the owner of such participation for all purposes of this Agreement, notwithstanding notice to the contrary. For the avoidance of doubt, the Administrative Agent (in its capacity as Administrative Agent) shall have no responsibility for maintaining a Participant Register.

(d) Any Lender may at any time pledge or assign a security interest in all or any portion of its rights under this Agreement (other than to any Disqualified Institution or natural person) to secure obligations of such Lender, including without limitation any pledge or assignment to secure obligations to a Federal Reserve Bank or other central bank having jurisdiction over such Lender, and this Section 9.05 shall not apply to any such pledge or assignment of a security interest; provided that no such pledge or assignment of a security interest shall release a Lender from any of its obligations hereunder or substitute any such pledgee or assignee for such Lender as a party hereto.

(e) Notwithstanding anything to the contrary contained herein, any Lender (a "**Granting Lender**") may grant to a special purpose funding vehicle (an "**SPC**"), identified as such in writing from time to time by the Granting Lender to the Administrative Agent and the Borrower Representative, the option to provide to the Borrowers all or any part of any Loan that such Granting Lender would otherwise be obligated to make to the Borrowers pursuant to this Agreement; provided that (i) nothing herein shall constitute a commitment by any SPC to make any Loan and (ii) if an SPC elects not to exercise such option or otherwise fails to provide all or any part of such Loan, the Granting Lender shall be obligated to make such Loan pursuant to the terms hereof. The making of a Loan by an SPC hereunder shall utilize the Commitment of the Granting Lender to the same extent, and as if, such Loan were made by such Granting Lender. Each party hereto hereby agrees that (i) neither the grant to any SPC nor the exercise by any SPC of such option shall increase the costs or expenses or otherwise increase or change the obligations of the Borrowers under this Agreement (including its obligations under Section 2.15, 2.16 or 2.17) and no SPC shall be entitled to any greater amount under Section 2.13, 2.14 or 2.15 or any other provision of this Agreement or any other Loan Document that the Granting Lender would have been entitled to receive, (ii) no SPC shall be liable for any indemnity or similar payment obligation under this Agreement (all liability for which shall remain with the Granting Lender) and (iii) the Granting Lender shall for all purposes including approval of any amendment, waiver or other modification of any provision of the Loan Documents, remain the Lender of record hereunder. In furtherance of the foregoing, each party hereto hereby agrees (which agreement shall survive the termination of this Agreement) that, prior to the date that is one year and one day after the payment in full of all outstanding commercial paper or other senior indebtedness of any SPC, it will not institute against, or join any other Person in instituting against, such SPC any bankruptcy, reorganization, arrangement, insolvency or liquidation proceedings under the laws of the United States, any State thereof or Canada; provided that (i) in the case of the Borrowers, such SPC's Granting Lender is in compliance in all material respects with its obligations to the Borrowers hereunder and (ii) each Lender designating any SPC hereby agrees to indemnify, save and hold harmless each other party hereto for any loss, cost, damage or expense arising out of its inability to institute such a proceeding against such SPC during such period of forbearance. In addition, notwithstanding anything to the contrary contained in this Section 9.05, any SPC may (i) with notice to, but without the prior written consent of, the Borrower Representative or the Administrative Agent and without paying any processing fee therefor, assign all or a portion of its interests in any Loans to the Granting Lender and (ii) disclose on a confidential basis any non-public information relating to its Loans to any rating agency, commercial paper dealer or provider of any surety, guarantee or credit or liquidity enhancement to such SPC.

(f) Any assignment or participation by a Lender without the Borrower Representative's consent to a Disqualified Institution (or any Affiliate thereof) or, to the extent the Borrower Representative's consent is required under this Section 9.05, to any other Person, shall be void ab initio, and the Borrowers shall be entitled to seek specific performance to unwind any such assignment or participation in addition to any other remedies available to the Borrowers at law or in equity.

Section 9.06 Survival. All covenants, agreements, representations and warranties made by the Loan Parties in the Loan Documents and in the certificates or other instruments delivered in connection with or pursuant to this Agreement or any other Loan Document shall be considered to have been relied

upon by the other parties hereto and shall survive the execution and delivery of the Loan Documents and the making of any Loans and issuances of any Letters of Credit, regardless of any investigation made by any such other party or on its behalf and notwithstanding that the Administrative Agent, any Lender or any Issuing Bank may have had notice or knowledge of any Default or Event of Default or incorrect representation or warranty at the time any credit is extended hereunder, and shall continue in full force and effect until the Termination Date. The provisions of Sections 2.15, 2.16, 2.17, 9.03 and 9.13 and Article 8 shall survive and remain in full force and effect regardless of the consummation of the transactions contemplated hereby, the repayment of the Loans, the expiration or termination of the Letters of Credit and the Commitments, the occurrence of the Termination Date or the termination of this Agreement or any provision hereof but in each case, subject to the limitations set forth in this Agreement.

Section 9.07 Counterparts; Integration; Effectiveness. This Agreement may be executed in counterparts (and by different parties hereto on different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. This Agreement, the other Loan Documents and the Fee Letter and any separate letter agreements with respect to fees payable to the Administrative Agent constitute the entire contract among the parties relating to the subject matter hereof and supersede any and all previous agreements and understandings, oral or written, relating to the subject matter hereof. Except as provided in Section 4.01, this Agreement shall become effective when it shall have been executed by Holdings, the Borrowers, the Subsidiaries of Rockport Group party hereto and the Administrative Agent and when the Administrative Agent shall have received counterparts hereof which, when taken together, bear the signatures of each of the other parties hereto, and thereafter shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns. Delivery of an executed counterpart of a signature page of this Agreement by facsimile or by email as a ".pdf" or ".tif" attachment shall be effective as delivery of a manually executed counterpart of this Agreement.

Section 9.08 Severability. To the extent permitted by law, any provision of any Loan Document held to be invalid, illegal or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such invalidity, illegality or unenforceability without affecting the validity, legality and enforceability of the remaining provisions thereof; and the invalidity of a particular provision in a particular jurisdiction shall not invalidate such provision in any other jurisdiction.

Section 9.09 Right of Setoff. If an Event of Default shall have occurred and be continuing, upon the written consent of the Administrative Agent, each Issuing Bank, each Lender and each of their respective Affiliates is hereby authorized at any time and from time to time, to the fullest extent permitted by law, to set off and apply any and all deposits (general or special, time or demand, provisional or final) at any time held and other obligations at any time owing by the Administrative Agent, such Issuing Bank or such Lender or Affiliate (including by branches and agencies of the Administrative Agent, such Issuing Bank or such Lender, wherever located) to or for the credit or the account of any Borrower or any Loan Guarantor against any of and all the Secured Obligations held by the Administrative Agent, such Issuing Bank or such Lender or Affiliate, irrespective of whether or not the Administrative Agent, such Issuing Bank or such Lender or Affiliate shall have made any demand under the Loan Documents and although such obligations may be unmatured. Any applicable Lender or Affiliate shall promptly notify the Borrower Representative and the Administrative Agent (and the Administrative Agent shall promptly notify the Borrower Representative) of such set-off or application; provided that any failure to give or any delay in giving such notice shall not affect the validity of any such set-off or application under this Section. The rights of each Lender, Administrative Agent and Affiliate under this Section are in addition to other rights and remedies (including other rights of setoff) which such Lender, Administrative Agent or Affiliate may have.

Section 9.10 Governing Law; Jurisdiction; Consent to Service of Process.

(a) THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS (OTHER THAN AS EXPRESSLY SET FORTH IN OTHER LOAN DOCUMENTS) AND ANY CLAIM, CONTROVERSY OR DISPUTE ARISING UNDER OR RELATED TO THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS (OTHER THAN AS EXPRESSLY SET FORTH IN THE OTHER LOAN DOCUMENTS), WHETHER IN TORT, CONTRACT (AT LAW OR IN EQUITY) OR OTHERWISE, SHALL BE GOVERNED BY, AND CONSTRUED AND INTERPRETED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK WITHOUT REGARD TO CONFLICT OF LAW PRINCIPLES THAT WOULD RESULT IN THE APPLICATION OF ANY LAW OTHER THAN THE LAW OF THE STATE OF NEW YORK.

(b) EACH PARTY HERETO HEREBY IRREVOCABLY AND UNCONDITIONALLY SUBMITS, FOR ITSELF AND ITS PROPERTY, TO THE EXCLUSIVE JURISDICTION OF ANY U.S. FEDERAL OR NEW YORK STATE COURT SITTING IN THE BOROUGH OF MANHATTAN, IN THE CITY OF NEW YORK (OR ANY APPELLATE COURT THEREFROM) OVER ANY SUIT, IN ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO ANY LOAN DOCUMENTS AND AGREES THAT ALL CLAIMS IN RESPECT OF ANY SUCH ACTION OR PROCEEDING SHALL (EXCEPT AS PERMITTED BELOW) BE HEARD AND DETERMINED IN SUCH NEW YORK STATE OR, TO THE EXTENT PERMITTED BY LAW, FEDERAL COURT; PROVIDED THAT WITH RESPECT TO ANY SUIT, ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THE MASTER PURCHASE AGREEMENT AND THE TRANSACTIONS CONTEMPLATED THEREBY AND WHICH DO NOT INVOLVE ANY CLAIMS AGAINST THE ARRANGER OR THE LENDERS, THIS SENTENCE SHALL NOT OVERRIDE ANY JURISDICTION PROVISION IN THE MASTER PURCHASE AGREEMENT. THE PARTIES HERETO AGREE THAT SERVICE OF ANY PROCESS, SUMMONS, NOTICE OR DOCUMENT BY REGISTERED MAIL ADDRESSED TO SUCH PERSON SHALL BE EFFECTIVE SERVICE OF PROCESS AGAINST SUCH PERSON FOR ANY SUIT, ACTION OR PROCEEDING BROUGHT IN ANY SUCH COURT. EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES ANY OBJECTION TO THE LAYING OF VENUE OF ANY SUCH SUIT, ACTION OR PROCEEDING BROUGHT IN ANY SUCH COURT AND ANY CLAIM THAT ANY SUCH SUIT, ACTION OR PROCEEDING HAS BEEN BROUGHT IN AN INCONVENIENT FORUM. EACH OF THE PARTIES HERETO AGREES THAT A FINAL JUDGMENT IN ANY SUCH ACTION OR PROCEEDING MAY BE ENFORCED IN OTHER JURISDICTIONS BY SUIT ON THE JUDGMENT OR IN ANY OTHER MANNER PROVIDED BY LAW. EACH PARTY HERETO AGREES THAT THE ADMINISTRATIVE AGENT AND THE LENDERS RETAIN THE RIGHT TO BRING PROCEEDINGS AGAINST ANY LOAN PARTY IN THE COURTS OF ANY OTHER JURISDICTION SOLELY IN CONNECTION WITH THE EXERCISE OF ANY RIGHTS UNDER ANY COLLATERAL DOCUMENT.

(c) EACH PARTY HERETO HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES, TO THE FULLEST EXTENT IT MAY LEGALLY AND EFFECTIVELY DO SO, ANY OBJECTION WHICH IT MAY NOW OR HEREAFTER HAVE TO THE LAYING OF VENUE OF ANY SUIT, ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT IN ANY COURT REFERRED TO IN PARAGRAPH (B) OF THIS SECTION. EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, ANY CLAIM OR DEFENSE OF AN INCONVENIENT FORUM TO THE MAINTENANCE OF SUCH ACTION, SUIT OR PROCEEDING IN ANY SUCH COURT.

(d) TO THE EXTENT PERMITTED BY LAW, EACH PARTY TO THIS AGREEMENT HEREBY IRREVOCABLY WAIVES PERSONAL SERVICE OF ANY AND ALL PROCESS UPON IT AND AGREES THAT ALL SUCH SERVICE OF PROCESS MAY BE MADE

BY REGISTERED MAIL (OR ANY SUBSTANTIALLY SIMILAR FORM OF MAIL) DIRECTED TO IT AT ITS ADDRESS FOR NOTICES AS PROVIDED FOR IN SECTION 9.01. EACH PARTY TO THIS AGREEMENT HEREBY WAIVES ANY OBJECTION TO SUCH SERVICE OF PROCESS AND FURTHER IRREVOCABLY WAIVES AND AGREES NOT TO PLEAD OR CLAIM IN ANY ACTION OR PROCEEDING COMMENCED HEREUNDER OR UNDER ANY LOAN DOCUMENT THAT SERVICE OF PROCESS WAS INVALID AND INEFFECTIVE. NOTHING IN THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT WILL AFFECT THE RIGHT OF ANY PARTY TO THIS AGREEMENT TO SERVE PROCESS IN ANY OTHER MANNER PERMITTED BY LAW.

Section 9.11 Waiver of Jury Trial. EACH PARTY HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY SUIT, ACTION, PROCEEDING OR COUNTERCLAIM (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY) DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT, ANY OTHER LOAN DOCUMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY. EACH PARTY HERETO (a) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (b) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

Section 9.12 Headings. Article and Section headings and the Table of Contents used herein are for convenience of reference only, are not part of this Agreement and shall not affect the construction of, or be taken into consideration in interpreting, this Agreement.

Section 9.13 Confidentiality. The Administrative Agent, each Lender, each Issuing Bank and each Arranger agrees (and each Lender agrees to cause its SPC, if any) to maintain the confidentiality of the Confidential Information (as defined below), except that Confidential Information may be disclosed (a) to its and its Affiliates' directors (or equivalent managers), officers, employees, independent auditors, or other agents, experts and advisors, including accountants, legal counsel and other advisors (collectively, the "**Representatives**") on a "need to know" basis solely in connection with the transactions completed hereby and who are informed of the confidential nature of such Confidential Information and are or have been advised of their obligation to keep such Confidential Information of this type confidential; provided that such Person shall be responsible for its Affiliates' and their Representatives' compliance with this paragraph, (b) upon the demand or request of any regulatory (including any self-regulatory body, such as the National Association of Insurance Commissioners), governmental or administrative authority purporting to have jurisdiction over such Person or its Affiliates (in which case such Person shall (i) except with respect to any audit or examination conducted by bank accountants or any Governmental Authority exercising examination or regulatory authority, to the extent permitted by law, inform the Borrower Representative promptly in advance thereof and (ii) use commercially reasonable efforts to ensure that any such information so disclosed is accorded confidential treatment), (c) to the extent compelled by legal process in, or reasonably necessary to, the defense of such legal, judicial or administrative proceeding, in any legal, judicial or administrative proceeding or otherwise as required by applicable Requirements of Law, rule or regulation (in which case such party shall (i) to the extent permitted, inform the Borrower Representative promptly in advance thereof and (ii) use commercially reasonable efforts to ensure that any such information so disclosed is accorded confidential treatment), (d) in connection with the exercise of any remedies hereunder or under any other Loan Document or the enforcement of rights hereunder or thereunder, (e) to any other party to this Agreement, (f) subject to an acknowledgment and agreement by such recipient that such information is being disseminated on a confidential basis (on substantially the terms set forth in this paragraph or as is

otherwise reasonably acceptable to the Borrower Representative, to (i) any Eligible Assignee of or Participant in, or any prospective Eligible Assignee of or Participant in, any of its rights or obligations under this Agreement, including any SPC (in each case other than a Disqualified Institution), (ii) any pledgee referred to in Section 9.05 or (iii) any actual or prospective, direct or indirect contractual counterparty (or its advisors) to any swap or derivative transaction (including any credit default swap) or similar derivative product relating to the Loan Parties and their obligations subject to acknowledgment and agreement by such recipient that such information is being disseminated on a confidential basis (on substantially the terms set forth in this paragraph or as is otherwise reasonably acceptable to the Borrower Representative), (g) with the prior written consent of the Borrower Representative, (h) to Moody's or S&P in connection with obtaining ratings for the Borrower Representative or the Senior Notes, (i) to the extent applicable and reasonably necessary or advisable, for purposes of establishing a "due diligence" defense and (j) to the extent such Confidential Information (X) becomes publicly available other than as a result of a breach of this Section by such Person, its Affiliates or their respective Representatives or (Y) becomes available to the Administrative Agent, any Issuing Bank or any Lender on a non-confidential basis other than as a result of a breach of this Section from a source other than a Loan Party. For the purposes of this Section, "**Confidential Information**" means all information received from any Loan Party relating to the Loan Parties or their businesses, the Sponsor or the Transactions other than any such information that is available to the Administrative Agent, any Issuing Bank or any Lender on a non-confidential basis prior to disclosure by any Loan Party. For the avoidance of doubt, in no event shall any disclosure of such Confidential Information be made to any Disqualified Institution (at the time such disclosure was made).

Section 9.14 No Fiduciary Duty. Each of the Administrative Agent, the Arranger and the Syndication Agent, each Lender and their respective Affiliates (collectively, solely for purposes of this paragraph, the "**Lenders**"), may have economic interests that conflict with those of the Loan Parties, their stockholders and/or their respective affiliates. Each Loan Party agrees that nothing in the Loan Documents or otherwise will be deemed to create an advisory, fiduciary or agency relationship or fiduciary or other implied duty between any Lender, on the one hand, and any Loan Party, its respective stockholders or its respective affiliates, on the other. The Loan Parties acknowledge and agree that: (i) the transactions contemplated by the Loan Documents (including the exercise of rights and remedies hereunder and thereunder) are arm's-length commercial transactions between the Lenders, on the one hand, and each Loan Party, on the other, and (ii) in connection therewith and with the process leading thereto, (x) no Lender has assumed an advisory or fiduciary responsibility in favor of any Loan Party, its respective stockholders or its respective affiliates with respect to the transactions contemplated hereby (or the exercise of rights or remedies with respect thereto) or the process leading thereto (irrespective of whether any Lender has advised, is currently advising or will advise any Loan Party, its respective stockholders or its respective Affiliates on other matters) or any other obligation to any Loan Party except the obligations expressly set forth in the Loan Documents and (y) each Lender is acting solely as principal and not as the agent or fiduciary of such Loan Party, its respective management, stockholders, creditors or any other Person. Each Loan Party acknowledges and agrees that such Loan Party has consulted its own legal and financial advisors to the extent it deemed appropriate and that it is responsible for making its own independent judgment with respect to such transactions and the process leading thereto. Each Loan Party agrees that it will not claim that any Lender owes a fiduciary or similar duty to such Loan Party in connection with such transaction or the process leading thereto.

Section 9.15 Several Obligations; Violation of Law. The respective obligations of the Lenders hereunder are several and not joint and the failure of any Lender to make any Loan or perform any of its obligations hereunder shall not relieve any other Lender from any of its obligations hereunder.

Section 9.16 Anti-Money Laundering Legislation.

(a) Each Lender that is subject to the requirements of the USA PATRIOT Act, the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* (Canada), Canadian AML Laws, and other applicable anti-money laundering, anti-terrorist financing, government sanction and "know your client" laws, whether within the United States, Canada or elsewhere (collectively, including any guidelines or orders thereunder, "**AML Legislation**"), hereby notifies the Loan Parties that pursuant to the requirements of the AML Legislation, it is required to obtain, verify and record information that identifies the Borrowers and each Loan Guarantor, which information includes the name and address of each Loan Party and other information that will allow such Lender to identify the Loan Parties in accordance with the AML Legislation.

(b) If the Administrative Agent has ascertained the identity of the Loan Parties or any authorized signatories of the Loan Parties for the purposes of applicable AML Legislation, then the Administrative Agent:

(i) shall be deemed to have done so as an agent for each Lender, and this Agreement shall constitute a "written agreement" in such regard between each Lender and the Administrative Agent within the meaning of applicable AML Legislation; and

(ii) shall provide to each Lender copies of all information obtained in such regard without any representation or warranty as to its accuracy or completeness.

Notwithstanding the preceding sentence and except as may otherwise be agreed in writing, each of the Lenders agrees that the Administrative Agent has no obligation to ascertain the identity of the Loan Parties or any authorized signatories of the Loan Parties on behalf of any Lender, or to confirm the completeness or accuracy of any information it obtains from the Loan Parties or any such authorized signatory in doing so.

Section 9.17 Disclosure. Each Loan Party and each Lender hereby acknowledges and agrees that the Administrative Agent and/or its Affiliates from time to time may hold investments in, make other loans to or have other relationships with any of the Loan Parties and their respective Affiliates.

Section 9.18 Appointment for Perfection. Each Lender hereby appoints each other Lender as its agent for the purpose of perfecting Liens, for the benefit of the Administrative Agent and the Lenders, in assets which, in accordance with Article 9 of the UCC, the PPSA or any other applicable law can be perfected only by possession. Should any Lender (other than the Administrative Agent) obtain possession of any such Collateral, such Lender shall notify the Administrative Agent thereof; and, promptly upon the Administrative Agent's request therefor shall deliver such Collateral to the Administrative Agent or otherwise deal with such Collateral in accordance with the Administrative Agent's instructions.

Section 9.19 Interest Rate Limitation. Notwithstanding anything herein to the contrary, if at any time the interest rate applicable to any Loan, together with all fees, charges and other amounts which are treated as interest on such Loan under applicable law, including section 347 of the *Criminal Code* (Canada), section 8 of the *Interest Act* (Canada) or any successor or similar legislation, (collectively the "**Charges**"), shall exceed the maximum lawful rate (the "**Maximum Rate**") which may be contracted for, charged, taken, received or reserved by the Lender holding such Loan in accordance with applicable law, the rate of interest payable in respect of such Loan hereunder, together with all Charges payable in respect thereof, shall be limited to the Maximum Rate and, to the extent lawful, the interest and Charges that would have been payable in respect of such Loan but were not payable as a result of the operation of this Section shall be cumulated and the interest and Charges payable to such Lender in respect of other Loans or periods shall be increased (but not above the Maximum Rate therefor) until such cumulated amount,

together with interest thereon at the Federal Funds Effective Rate to the date of repayment, shall have been received by such Lender.

Section 9.20 Intercreditor Agreement. REFERENCE IS MADE TO THE INTERCREDITOR AGREEMENT. EACH LENDER HEREUNDER (a) CONSENTS TO THE SUBORDINATION OF LIENS PROVIDED FOR IN THE INTERCREDITOR AGREEMENT, (b) AGREES THAT IT WILL BE BOUND BY AND WILL TAKE NO ACTIONS CONTRARY TO THE PROVISIONS OF THE INTERCREDITOR AGREEMENT AND (c) AUTHORIZES AND INSTRUCTS THE ADMINISTRATIVE AGENT TO ENTER INTO THE INTERCREDITOR AGREEMENT AS "REVOLVING FACILITY AGENT" AND ON BEHALF OF SUCH LENDER. THE PROVISIONS OF THIS SECTION 9.20 ARE NOT INTENDED TO SUMMARIZE ALL RELEVANT PROVISIONS OF THE INTERCREDITOR AGREEMENT, THE FORM OF WHICH IS ATTACHED AS AN EXHIBIT TO THIS AGREEMENT. REFERENCE MUST BE MADE TO THE INTERCREDITOR AGREEMENT ITSELF TO UNDERSTAND ALL TERMS AND CONDITIONS THEREOF. EACH LENDER IS RESPONSIBLE FOR MAKING ITS OWN ANALYSIS AND REVIEW OF THE INTERCREDITOR AGREEMENT AND THE TERMS AND PROVISIONS THEREOF, AND NEITHER THE ADMINISTRATIVE AGENT NOR ANY OF ITS AFFILIATES MAKES ANY REPRESENTATION TO ANY LENDER AS TO THE SUFFICIENCY OR ADVISABILITY OF THE PROVISIONS CONTAINED IN THE INTERCREDITOR AGREEMENT. THE FOREGOING PROVISIONS ARE INTENDED AS AN INDUCEMENT TO THE INITIAL PURCHASERS UNDER THE NOTE PURCHASE AGREEMENT TO PURCHASE THE NOTES AND SUCH INITIAL PURCHASERS ARE INTENDED THIRD PARTY BENEFICIARIES OF SUCH PROVISIONS AND THE PROVISIONS OF THE INTERCREDITOR AGREEMENT.

Section 9.21 Conflicts. Notwithstanding anything to the contrary contained herein, in any other Loan Document (but excluding the Intercreditor Agreement), in the event of any conflict or inconsistency between this Agreement and any other Loan Document (excluding the Intercreditor Agreement), the terms of this Agreement shall govern and control; provided that in the case of any conflict or inconsistency between the Intercreditor Agreement and any other Loan Document, the terms of the Intercreditor Agreement shall govern and control.

Section 9.22 Currency of Payment. Each payment owing by any Borrower hereunder shall be made in the relevant currency specified herein or, if not specified herein, specified in any other Loan Document executed by the Administrative Agent (the "**Currency of Payment**") at the place specified herein (such requirements are of the essence of this Agreement). If, for the purpose of applying to the Obligations in accordance with the terms hereof any amount received by the Administrative Agent, it is necessary to convert a sum due hereunder in a Currency of Payment into another currency, the parties hereto agree that the rate of exchange used shall be that at which in accordance with normal banking procedures the Administrative Agent could purchase such Currency of Payment with such other currency at the Spot Selling Rate on the Business Day preceding that on which payment is to be applied. The obligations in respect of any sum due hereunder to any Lender or any Issuing Bank shall, notwithstanding any payment expressed in a currency other than the Currency of Payment, be discharged only to the extent that, on the Business Day following receipt by such Lender or Issuing Bank of any sum to be so due in such other currency, such Lender or Issuing Bank may, in accordance with normal banking procedures, purchase the Currency of Payment with such other currency. Each Borrower agrees that (a) if the amount of the Currency of Payment so purchased is less than the sum originally due to such Lender or Issuing Bank in the Currency of Payment, as a separate obligation and notwithstanding the result of any such payment, such Borrower shall immediately pay the shortfall (in the Currency of Payment) to such Lender or Issuing Bank and (b) if the amount of the Currency of Payment so purchased exceeds the sum originally due to such Lender or Issuing Bank, such Lender or Issuing Bank shall promptly pay the excess over to such Borrower in the currency and to the extent actually received.

Section 9.23 Judgment Currency.

(a) If, for the purpose of obtaining or enforcing judgment against any Canadian Loan Party in any court in any jurisdiction, it becomes necessary to convert into any other currency (such other currency being hereinafter in this Section 9.23 referred to as the "**Judgment Currency**") an amount due under any Loan Document in any currency (the "**Obligation Currency**") other than the Judgment Currency, the conversion shall be made at the rate of exchange prevailing on the Business Day immediately preceding the date of actual payment of the amount due, in the case of any proceeding in the courts of the Province of Ontario or in the courts of any other jurisdiction that will give effect to such conversion being made on such date, or the date on which the judgment is given, in the case of any proceeding in the courts of any other jurisdiction (the applicable date as of which such conversion is made pursuant to this Section 9.23 being hereinafter in this Section 9.23 referred to as the "**Judgment Conversion Date**").

(b) If, in the case of any proceeding in the court of any jurisdiction referred to in Section 9.10, there is a change in the rate of exchange prevailing between the Judgment Conversion Date and the date of actual receipt for value of the amount due, the applicable Loan Party or Loan Parties shall pay such additional amount (if any, but in any event not a lesser amount) as may be necessary to ensure that the amount actually received in the Judgment Currency, when converted at the rate of exchange prevailing on the date of payment, will produce the amount of the Obligation Currency which could have been purchased with the amount of the Judgment Currency stipulated in the judgment or judicial order at the rate of exchange prevailing on the Judgment Conversion Date. Any amount due from any Loan Party under this Section 9.23(b) shall be due as a separate debt and shall not be affected by judgment being obtained for any other amounts due under or in respect of any of the Loan Documents.

(c) The term "rate of exchange" in this Section 9.23 means the rate of exchange at which Administrative Agent, on the relevant date at or about **12:00 noon** (New York time), would be prepared to sell, in accordance with Administrative Agent's normal course foreign currency exchange practices, the Obligation Currency against the Judgment Currency.

ARTICLE 10 LOAN GUARANTY

Section 10.01 Guaranty. Each Loan Guarantor hereby agrees that it is jointly and severally liable for, and, as primary obligor and not merely as surety, and absolutely and unconditionally and irrevocably guarantees to the Administrative Agent for the ratable benefit of the Secured Parties the full and prompt payment upon the failure of any Loan Party to do so, when and as the same shall become due, whether at stated maturity, upon acceleration or otherwise, and at all times thereafter, of the Secured Obligations (collectively the "**Guaranteed Obligations**"). Each Loan Guarantor further agrees that the Guaranteed Obligations may be extended or renewed in whole or in part without notice to or further assent from it, and that it remains bound upon its guarantee notwithstanding any such extension or renewal.

If any or all of the Guaranteed Obligations becomes due and payable hereunder, each Loan Guarantor, unconditionally and irrevocably, promises to pay such Guaranteed Obligations to the Administrative Agent and/or the other Secured Parties, on demand, together with any and all expenses which may be incurred by the Administrative Agent and the other Secured Parties in collecting any of the Guaranteed Obligations, to the extent reimbursable in accordance with Section 9.03. Each Loan Guarantor unconditionally and irrevocably guarantees the payment of any and all of the Guaranteed Obligations to the Secured Parties whether or not due or payable by the Borrowers upon the occurrence of any Event of Default specified in Section 7.01(f) or 7.01(g), and in such event, irrevocably and

unconditionally promises to pay such indebtedness to the Secured Parties, on demand, in currency in which such obligations are due.

Section 10.02 Guaranty of Payment. This Loan Guaranty is a guaranty of payment and not of collection. Each Loan Guarantor waives any right to require the Administrative Agent, any Issuing Bank or any Lender to sue the Borrowers, any other Loan Guarantor, any other guarantor, or any other Person obligated for all or any part of the Guaranteed Obligations (each, an "**Obligated Party**"), or otherwise to enforce its rights in respect of any Collateral securing all or any part of the Guaranteed Obligations. The Administrative Agent may enforce this Loan Guaranty upon the occurrence and during the continuance of an Event of Default.

Section 10.03 No Discharge or Diminishment of Loan Guaranty.

(a) Except as otherwise provided for herein, the obligations of each Loan Guarantor hereunder are unconditional, irrevocable and absolute and not subject to any reduction, limitation, impairment or termination for any reason (other than as set forth in Section 10.13), including: (i) any claim of waiver, release, extension, renewal, settlement, surrender, alteration, or compromise of any of the Guaranteed Obligations, by operation of law or otherwise; (ii) any change in the corporate existence, structure or ownership of any Borrower or any other guarantor of or other Person liable for any of the Guaranteed Obligations; (iii) any insolvency, bankruptcy, reorganization or other similar proceeding affecting any Obligated Party, or their assets or any resulting release or discharge of any obligation of any Obligated Party; (iv) the existence of any claim, setoff or other rights which any Loan Guarantor may have at any time against any Obligated Party, the Administrative Agent, any Issuing Bank any Lender or any other Person, whether in connection herewith or in any unrelated transactions; (v) any direction as to application of payments by the applicable Borrower or by any other party; (vi) any other continuing or other guaranty, undertaking or maximum liability of a guarantor or of any other party as to the Guaranteed Obligations; (vii) any payment on or in reduction of any such other guaranty or undertaking; (viii) any dissolution, termination or increase, decrease or change in personnel by the applicable Borrower or (ix) any payment made to any Secured Party on the Guaranteed Obligations which any such Secured Party repays to the applicable Borrower pursuant to court order in any bankruptcy, reorganization, arrangement, moratorium or other debtor relief proceeding, and each Loan Guarantor waives any right to the deferral or modification of its obligations hereunder by reason of any such proceeding.

(b) Except for termination of a Loan Guarantor's obligations hereunder or as expressly permitted by Section 10.13, the obligations of each Loan Guarantor hereunder are not subject to any defense or setoff, counterclaim, recoupment, or termination whatsoever by reason of the invalidity, illegality, or unenforceability of any of the Guaranteed Obligations or otherwise, or any provision of applicable law or regulation purporting to prohibit payment by any Obligated Party, of the Guaranteed Obligations or any part thereof.

(c) Further, the obligations of any Loan Guarantor hereunder are not discharged or impaired or otherwise affected by: (i) the failure of the Administrative Agent or any Secured Party to assert any claim or demand or to enforce any remedy with respect to all or any part of the Guaranteed Obligations; (ii) any waiver or modification of or supplement to any provision of any agreement relating to the Guaranteed Obligations; (iii) any release, non-perfection, or invalidity of any indirect or direct security for the obligations of the Borrowers for all or any part of the Guaranteed Obligations or any obligations of any other guarantor of or other Person liable for any of the Guaranteed Obligations; (iv) any action or failure to act by the Administrative Agent or any Secured Party with respect to any Collateral securing any part of the Guaranteed Obligations; or (v) any default, failure or delay, willful or otherwise, in the payment or performance of any of the Guaranteed Obligations, or any other circumstance, act, omission or delay that might in any manner or to any extent vary the risk of such Loan

Guarantor or that would otherwise operate as a discharge of any Loan Guarantor as a matter of law or equity (other than as set forth in Section 10.13).

Section 10.04 Defenses Waived. To the fullest extent permitted by applicable law, and except for termination of a Loan Guarantor's obligations hereunder or as expressly permitted by Section 10.13, each Loan Guarantor hereby waives any defense based on or arising out of any defense of the Borrowers or any other Loan Guarantor or arising out of the disability of the Borrowers or any other Loan Guarantor or any other party or the unenforceability of all or any part of the Guaranteed Obligations or any part thereof from any cause, or the cessation from any cause of the liability of the Borrowers or any other Loan Guarantor. Without limiting the generality of the foregoing, each Loan Guarantor irrevocably waives acceptance hereof, presentment, demand, protest and, to the fullest extent permitted by law, any notice not provided for herein, including notices of nonperformance, notices of protest, notices of dishonor, notices of acceptance of this Loan Guaranty, and notices of the existence, creation or incurring of new or additional Guaranteed Obligations, as well as any requirement that at any time any action be taken by any Person against any Obligated Party, or any other Person, including any right (except as shall be required by applicable statute and cannot be waived) to require any Secured Party to (i) proceed against the Borrowers, any other guarantor or any other party, (ii) proceed against or exhaust any security held from the Borrowers, any other Loan Guarantor or any other party or (iii) pursue any other remedy in any Secured Party's power whatsoever. The Administrative Agent may, at its election, foreclose on any Collateral held by it by one or more judicial or nonjudicial sales, whether or not every aspect of any such sale is commercially reasonable (to the extent permitted by applicable law), accept an assignment of any such Collateral in lieu of foreclosure or otherwise act or fail to act with respect to any Collateral securing all or a part of the Guaranteed Obligations, and the Administrative Agent may, at its election, compromise or adjust any part of the Guaranteed Obligations, make any other accommodation with any Obligated Party or exercise any other right or remedy available to it against any Obligated Party, or any security, without affecting or impairing in any way the liability of such Loan Guarantor under this Loan Guaranty except as otherwise provided in Section 10.13. To the fullest extent permitted by applicable law, each Loan Guarantor waives any defense arising out of any such election even though that election may operate, pursuant to applicable law, to impair or extinguish any right of reimbursement or subrogation or other right or remedy of any Loan Guarantor against any Obligated Party or any security.

Section 10.05 Authorization. The Loan Guarantors authorize the Secured Parties without notice or demand (except as shall be required by applicable statute and cannot be waived), and without affecting or impairing its liability hereunder (except as set forth in Section 10.13), from time to time to:

(a) change the manner, place or terms of payment of, and/or change or extend the time of payment of, renew, increase, accelerate or alter, any of the Guaranteed Obligations (including any increase or decrease in the principal amount thereof or the rate of interest or fees thereon), any security therefor, or any liability incurred directly or indirectly in respect thereof, and this Loan Guaranty shall apply to the Guaranteed Obligations as so changed, extended, renewed or altered;

(b) take and hold security for the payment of the Guaranteed Obligations and sell, exchange, release, impair, surrender, realize upon or otherwise deal with in any manner and in any order any property by whomsoever at any time pledged or mortgaged to secure, or howsoever securing, the Guaranteed Obligations or any liabilities (including any of those hereunder) incurred directly or indirectly in respect thereof or hereof, and/or any offset there against;

(c) exercise or refrain from exercising any rights against any of the Borrowers, any other Loan Party or others or otherwise act or refrain from acting;

(d) release or substitute any one or more endorsers, guarantors, the Borrowers, other Loan Parties or other obligors;

(e) settle or compromise any of the Guaranteed Obligations, any security therefor or any liability (including any of those hereunder) incurred directly or indirectly in respect thereof or hereof, and may subordinate the payment of all or any part thereof to the payment of any liability (whether due or not) of the Borrowers to their creditors other than the Secured Parties;

(f) apply any sums by whomsoever paid or howsoever realized to any liability or liabilities of the Borrowers to the Secured Parties regardless of what liability or liabilities of the Borrowers remains unpaid;

(g) consent to or waive any breach of, or any act, omission or default under, this Agreement, any other Loan Document, any Hedge Agreement or any of the instruments or agreements referred to herein or therein, or otherwise amend, modify or supplement this Agreement, any other Loan Document, any Hedge Agreement or any of such other instruments or agreements; and/or

(h) take any other action which would, under otherwise applicable principles of common law, give rise to a legal or equitable discharge of the Loan Guarantors from their respective liabilities under this Loan Guaranty.

Section 10.06 Rights of Subrogation. No Loan Guarantor will assert any right, claim or cause of action, including a claim of subrogation, contribution or indemnification that it has against any Loan Party in respect of this Loan Guaranty until the occurrence of the Termination Date.

Section 10.07 Reinstatement; Stay of Acceleration. If at any time any payment of any portion of the Guaranteed Obligations is rescinded or must otherwise be restored or returned upon the insolvency, bankruptcy, or reorganization of any Borrower or otherwise, each Loan Guarantor's obligations under this Loan Guaranty with respect to that payment shall be reinstated at such time as though the payment had not been made. If acceleration of the time for payment of any of the Guaranteed Obligations is stayed upon the insolvency, bankruptcy or reorganization of any Borrower, all such amounts otherwise subject to acceleration under the terms of any agreement relating to the Guaranteed Obligations shall nonetheless be payable by the other Loan Guarantors forthwith on demand by the Administrative Agent.

Section 10.08 Information. Each Loan Guarantor assumes all responsibility for being and keeping itself informed of each Borrower's financial condition and assets, and of all other circumstances bearing upon the risk of nonpayment of the Guaranteed Obligations and the nature, scope and extent of the risks that each Loan Guarantor assumes and incurs under this Loan Guaranty, and agrees that none of the Administrative Agent, any Issuing Bank, any Lender or any other Secured Party shall have any duty to advise any Loan Guarantor of information known to it regarding those circumstances or risks.

Section 10.09 **[Reserved]**.

Section 10.10 Maximum Liability. It is the desire and intent of the Loan Guarantors and the Secured Parties that this Loan Guaranty shall be enforced against the Loan Guarantors to the fullest extent permissible under the laws and public policies applied in each jurisdiction in which enforcement is sought. The provisions of this Loan Guaranty are severable, and in any action or proceeding involving any state corporate law, or any state, federal, provincial, territorial or foreign bankruptcy, insolvency, reorganization or other law affecting the rights of creditors generally, if the obligations of any Loan Guarantor under this Loan Guaranty would otherwise be held or determined to be avoidable, invalid or unenforceable on account of the amount of such Loan Guarantor's liability under this Loan Guaranty,

then, notwithstanding any other provision of this Loan Guaranty to the contrary, the amount of such liability shall, without any further action by the Loan Guarantors or the Secured Parties, be automatically limited and reduced to the highest amount that is valid and enforceable as determined in such action or proceeding (such highest amount determined hereunder being the relevant Loan Guarantor's "**Maximum Liability**"). Each Loan Guarantor agrees that the Guaranteed Obligations may at any time and from time to time exceed the Maximum Liability of each Loan Guarantor without impairing this Loan Guaranty or affecting the rights and remedies of the Secured Parties hereunder; provided that nothing in this sentence shall be construed to increase any Loan Guarantor's obligations hereunder beyond its Maximum Liability.

Section 10.11 Contribution.

In the event any Loan Guarantor (a "**Paying Guarantor**") shall make any payment or payments under this Loan Guaranty or shall suffer any loss as a result of any realization upon any Collateral granted by it to secure its obligations under this Loan Guaranty, each other Loan Guarantor (each a "**Non-Paying Guarantor**") shall contribute to such Paying Guarantor an amount equal to such Non-Paying Guarantor's "Guarantor Percentage" of such payment or payments made, or losses suffered, by such Paying Guarantor. For purposes of this Article 10, each Non-Paying Guarantor's "**Guarantor Percentage**" with respect to any such payment or loss by a Paying Guarantor shall be determined as of the date on which such payment or loss was made by reference to the ratio of (a) such Non-Paying Guarantor's Maximum Liability as of such date (without giving effect to any right to receive, or obligation to make, any contribution hereunder) or, if such Non-Paying Guarantor's Maximum Liability has not been determined, the aggregate amount of all monies received by such Non-Paying Guarantor from the Borrowers after the date hereof (whether by loan, capital infusion or by other means) to (b) the aggregate Maximum Liability of all Loan Guarantors hereunder (including such Paying Guarantor) as of such date (without giving effect to any right to receive, or obligation to make, any contribution hereunder), or to the extent that a Maximum Liability has not been determined for any Loan Guarantor, the aggregate amount of all monies received by such Loan Guarantors from the Borrowers after the date hereof (whether by loan, capital infusion or by other means). Nothing in this provision shall affect any Loan Guarantor's several liability for the entire amount of the Guaranteed Obligations (up to such Loan Guarantor's Maximum Liability). Each of the Loan Guarantors covenants and agrees that its right to receive any contribution under this Loan Guaranty from a Non-Paying Guarantor shall be subordinate and junior in right of payment to the Secured Obligations until the Termination Date. This provision is for the benefit of the Administrative Agent, the Lenders, the Issuing Banks and the other Secured Parties and may be enforced by any one, or more, or all of them in accordance with the terms hereof.

Section 10.12 Liability Cumulative. The liability of each Loan Guarantor under this Article 10 is in addition to and shall be cumulative with all liabilities of such Loan Guarantor to the Administrative Agent, the Issuing Banks and the Lenders under this Agreement and the other Loan Documents to which such Loan Guarantor is a party or in respect of any obligations or liabilities of the other Loan Guarantors, without any limitation as to amount, unless the instrument or agreement evidencing or creating such other liability specifically provides to the contrary.

Section 10.13 Release of Loan Guarantors. Notwithstanding anything in Section 9.02(b) to the contrary, a Subsidiary Guarantor shall automatically be released from its obligations hereunder and its Loan Guaranty shall be automatically released (a) upon the consummation of any transaction or related series of transactions permitted hereunder if as a result thereof such Subsidiary Guarantor shall cease to be a Subsidiary (or becomes an Excluded Subsidiary) or (b) upon the occurrence of the Termination Date. In connection with any such release, the Administrative Agent shall promptly execute and deliver to any Loan Guarantor, at such Loan Guarantor's expense, all documents that such Loan Guarantor shall reasonably request to evidence termination or release. Any execution and delivery of documents pursuant to the preceding sentence of this Section 10.13 shall be without recourse to or warranty by the

Administrative Agent (other than as to the Administrative Agent's authority to execute and deliver such documents).

ARTICLE 11 THE BORROWER REPRESENTATIVE

Section 11.01 Appointment; Nature of Relationship. Rockport Group is hereby appointed by each of the Borrowers as its contractual representative (herein referred to as the "**Borrower Representative**") hereunder and under each other Loan Document, and each of the Borrowers irrevocably authorizes the Borrower Representative to act as the contractual representative of such Borrower with the rights and duties expressly set forth herein and in the other Loan Documents. The Borrower Representative agrees to act as such contractual representative upon the express conditions contained in this Article 11. Additionally, each Borrower hereby appoints, to the extent the Borrower Representative requests any Loan on behalf of such Borrower, the Borrower Representative as its agent to receive all of the proceeds of such Loan in the Funding Account(s), at which time the Borrower Representative shall promptly disburse such Loan to such Borrower. Neither the Administrative Agent, the Lenders nor the Issuing Banks and their respective officers, directors, agents or employees, shall be liable to the Borrower Representative or any Borrower for any action taken or omitted to be taken by the Borrower Representative or the Borrowers pursuant to this Section 11.01.

Section 11.02 Powers. The Borrower Representative shall have and may exercise such powers under the Loan Documents as are specifically delegated to the Borrower Representative by the terms of each thereof, together with such powers as are reasonably incidental thereto. The Borrower Representative shall have no implied duties to the Borrowers, or any obligation to the Lenders to take any action thereunder except any action specifically provided by the Loan Documents to be taken by the Borrower Representative.

Section 11.03 Employment of Agents. The Borrower Representative may execute any of its duties as the Borrower Representative hereunder and under any other Loan Document by or through authorized officers.

Section 11.04 Notices. Each Borrower shall immediately notify the Borrower Representative of the occurrence of any Default hereunder, each such notice to refer to this Agreement describing such Default and stating that such notice is a "notice of default." In the event that the Borrower Representative receives such a notice, the Borrower Representative shall give prompt notice thereof to the Administrative Agent and the Lenders. Any notice provided to the Borrower Representative hereunder shall constitute notice to each Borrower on the date received by the Borrower Representative.

Section 11.05 Successor Borrower Representative. Upon the prior written consent of the Administrative Agent, the Borrower Representative may resign at any time, such resignation to be effective upon the appointment of a successor Borrower Representative reasonably acceptable to the Administrative Agent. The Administrative Agent shall give prompt written notice of such resignation to the Lenders.

Section 11.06 Execution of Loan Documents; Borrowing Base Certificate. The Borrowers hereby empower and authorize the Borrower Representative, on behalf of the Borrowers, to execute and deliver to the Administrative Agent and the Lenders the Loan Documents and all related agreements, certificates, documents, or instruments as shall be necessary or appropriate to effect the purposes of the Loan Documents, including without limitation, any Borrowing Base Certificate and any certificates required pursuant to Article 5. Each Borrower agrees that any action taken by the Borrower Representative or the Borrowers in accordance with the terms of this Agreement or the other Loan Documents, and the exercise by the Borrower Representative of its powers set forth therein or herein,

together with such other powers that are reasonably incidental thereto, shall be binding upon all of the Borrowers.

Section 11.07 Reporting. Each Borrower hereby agrees that such Borrower shall furnish promptly after each fiscal month to the Borrower Representative a copy of its Borrowing Base Certificate and any other certificate or report required hereunder or requested by the Borrower Representative on which the Borrower Representative shall rely to prepare the Borrowing Base Certificate and the Borrowing Base Certificate of each Borrower and Compliance Certificates required pursuant to the provisions of this Agreement.

[*Remainder of page intentionally left blank*]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed by their respective authorized officers as of the day and year first above written.

THE ROCKPORT GROUP, LLC

By: _____
Name: Robert Infantino
Title: President

THE ROCKPORT COMPANY, LLC

By: _____
Name: Robert Infantino
Title: President

ROCKPORT CANADA ULC

By: _____
Name: Robert Infantino
Title: President

TRG CLASS D, LLC

By: _____
Name: Robert Infantino
Title: President

DRYDOCK FOOTWEAR, LLC

By: _____
Name: Robert Infantino
Title: President

DD MANAGEMENT SERVICES LLC

By: _____
Name: Robert Infantino
Title: President

ROCKPORT CANADA HOLDINGS LTD

By: _____
Name: Robert Infantino
Title: Director

CITIZENS BUSINESS CAPITAL, a division of Citizens Asset Finance, Inc., individually, as Administrative Agent, Lender and a Swingline Lender

By: /s/ Michael Gannon
Name: Michael Gannon
Title: Senior Vice President

CITIZENS BANK, N.A., as an Issuing Bank

By: _____

Name: MICHAEL GANAN

Title: SENIOR VICE PRESIDENT

HSBC BANK USA, NATIONAL ASSOCIATION

By: _____

Name: Pablo Pena
Title: Vice President

EXHIBIT 2

Borrowing Base Certificate

Rockport Group LLC
Borrowing Base Certificate

Company Name: The Rockport Group, LLC As Of: 04/15/18

(In 000's)

		The Rockport Company, LLC		Total USD	Rockport Canada ULC	Total CAD	Total Consolidated
1. Eligible Credit Card Receivables							
Gross Credit Card Receivables		$ 469.5	gl 50170	$ 469.5	C$ 336.2	C$ 336.2	$ 731.7
Less Ineligibles:						C$	
(a)	Credit Card Fees	$ 69.8		$ 69.8	C$ 32.8	C$ 32.8	$ 95.4
(b)	> 5 Days Past Due	$ -		$ -	C$ -	C$ -	$ -
(c)	Contra-Offset	$ -		$ -	C$ -	C$ -	$ -
(d)	Other Ineligible per Credit Agreement	$ -		$ -	C$ -	C$ -	$ -
	Total Ineligibles	$ 69.8		$ 69.8	C$ 32.8	C$ 32.8	$ 95.4
	Net Credit Card Receivables	$ 399.7		$ 399.7	C$ 303.4	C$ 303.4	$ 636.4
	Exchange Rate				$/C$ 0.78		
	Credit Card Receivables Component	90.0%		90.0%	90.0%	90.0%	
	Credit Card Receivable availability	$ 359.7		$ 359.7	$ 213.0	C$ 273.1	$ 572.7

		The Rockport Company, LLC		Total USD	Rockport Canada ULC	Total CAD	Total Consolidated
2. Eligible Trade Accounts Receivables							
Gross Trade Accounts Recievables		$ 37,649.0		$ 37,649.0	C$ 8,495.4	C$ 8,495.4	$ 44,275.4
Less Ineligibles:							
(a)	A/R > 60 days past due	$ 2,840.9		$ 2,840.9	C$ 717.8	C$ 717.8	$ 3,400.7
(b)	A/R > 120 days past invoice but < 60 days past due	$ 1,256.3		$ 1,256.3	C$ 48.7	C$ 48.7	$ 1,294.3
(c)	Cross Aged (A/R Accounts > 50% past due as per (a)	$ 708.4		$ 708.4	C$ 58.0	C$ 58.0	$ 753.6
(d)	Aged Credits	$ 364.9		$ 364.9	C$ 77.4	C$ 77.4	$ 425.3
(e)	Intercompany and Intracompany	$ -		$ -	C$ -	C$ -	$ -
(f)	Foreign A/R not backed by LC or insurance	$ 2,011.5		$ 2,011.5	C$ -	C$ -	$ 2,011.5
(g)	Government A/R	$ -		$ -	C$ -	C$ -	$ -
(h)	Customers in collections	$ -		$ -	C$ -	C$ -	$ -
(i)	D1 & DZ AR Adjustments (Adj. on aging for short payments)	$ 899.8		$ 899.8	C$ 117.0	C$ 117.0	$ 991.0
(j)	Volume Discounts	$ 2,648.1		$ 2,648.1	C$ 543.5	C$ 543.5	$ 3,072.0
(k)	Rebates and Discounts	$ -		$ -	C$ -	C$ -	$ -
(l)	Co-Op Advertising	$ 300.0		$ 300.0	C$ 100.0	C$ 100.0	$ 378.0
(m)	A/R Concentrated > 20% (See CA for Hudson Bay under Canada	$ -		$ -	C$ -	C$ -	$ -
(n)	Unapplied Cash	$ -		$ -	C$ -	C$ -	$ -
(o)	QVC	$ -		$ -	C$ -	C$ -	$ -
(p)	Other Ineligible per Credit Agreement	$ -		$ -	C$ -	C$ -	$ -
	Total Ineligibles	11,029.8		11,029.8	1,662.4	1,662.4	$ 12,326.5
	Net Trade Accounts Receivable	$ 26,619.2		$ 26,619.2	C$ 6,833.0	C$ 6,833.0	$ 31,949.0
	Exchange Rate				$/C$ 0.7800		
	Trade Account Receivables Component	0.0%		85.0%	85.0%	85.0%	
	Trade Account Receivable availability	$ -		$ 22,626.3	$ 4,530.3	C$ 5,808.1	$ 27,157

Rockport Group LLC
Borrowing Base Certificate

Company Name: The Rockport Group, LLC As Of: 04/15/18

(In 000's)

3. Eligible Inventory - US

The Rockport Company, LLC

	Aravon			Cobb Hill			Dunham			Rockport			Total USD
	Wholesale & In Transit	Concept	Factory	Wholesale & In Transit	Concept	Factory	Wholesale & In Transit	Concept	Factory	Wholesale & In Transit	Concept	Factory	
Gross DC & In Transit Inventory	$ 3,185.9	$ 154.1	$ 13.4	$ 5,084.4	$ 858.9	$ 762.2	$ 4,249.7	$ 205.7	$ 0.9	$ 23,912.5	$ 5,204.0	$ 6,722.4	$ 50,354.2
Less Ineligibles:													
(a) Standard Price Variance	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -
(b) Closed Store Inventory	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -
(c) Shrink Reserve	$ -	$ 0.8	$ 0.1	$ -	$ 2.7	$ 2.5	$ -	$ 1.1	$ 0.0	$ -	$ 17.2	$ 22.0	$ 46.3
(d) Unprocessed Damages/Returns to Vendors	$ 4.4	$ -	$ -	$ 7.0	$ -	$ -	$ 5.8	$ -	$ -	$ 32.8	$ -	$ -	$ 50.0
(e) Locked Status Inventory	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -
(f) Defect Returns	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -
(g) Inventory Adjustments - Perpetual	$ (29.0)	$ (1.4)	$ (0.1)	$ (46.3)	$ (7.8)	$ (6.9)	$ (38.7)	$ (1.9)	$ (0.0)	$ (217.6)	$ (47.4)	$ (61.2)	$ (458.2)
(h) DC/ Shrink Reserve	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -
(i) Other Ineligible per Credit Agreement	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -
(j) LCM Inventory Reserve	$ 95.9	$ -	$ -	$ 153.0	$ -	$ -	$ 127.9	$ -	$ -	$ 719.7	$ -	$ -	$ 1,096.6
(k) Availability Reserve	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -
Total Ineligibles	71.3	(0.6)	(0.0)	113.8	(5.1)	(4.5)	95.0	(0.8)	(0.0)	535.0	(30.2)	(39.1)	734.7
Net Eligible Inventory	$ 3,114.7	$ 154.7	$ 13.4	$ 4,970.7	$ 864.0	$ 766.7	$ 4,154.7	$ 206.5	$ 0.9	$ 23,377.5	$ 5,234.2	$ 6,761.5	$ 49,619.5
Exchange Rate													
Inventory Component means:													
Advance Rate	90.0%	90.0%	90.0%	90.0%	90.0%	90.0%	90.0%	90.0%	90.0%	90.0%	90.0%	90.0%	
x NOLV Percentage	67.3%	61.0%	42.6%	67.3%	61.0%	42.6%	67.3%	61.0%	42.6%	81.6%	61.0%	42.6%	
(ii) % of Eligible Inventory	60.57%	54.90%	38.34%	60.57%	54.90%	38.34%	60.57%	54.90%	38.34%	73.44%	54.90%	38.34%	
Inventory availability US	**$ 1,886.6**	**$ 84.9**	**$ 5.2**	**$ 3,010.7**	**$ 474.4**	**$ 294.0**	**$ 2,516.5**	**$ 113.4**	**$ 0.3**	**$ 17,168.4**	**$ 2,873.6**	**$ 2,592.4**	**$ 31,020.2**

Eligible Inventory - Canada

Rockport Canada ULC

	Aravon			Cobb Hill			Dunham			Rockport Canada			Total CAD	Total Consolidated
	Wholesale & In Transit	Concept	Factory	Wholesale & In Transit	Concept	Factory	Wholesale & In Transit	Concept	Factory	Wholesale & In Transit	Concept	Factory		
Gross DC & In Transit Inventory	C$ 1,386.8	C$ -	C$ -	C$ 1,475.0	C$ 1,349.7	C$ 872.8	C$ 1,794.2	C$ -	C$ 0.1	C$ 5,279.7	C$ 3,494.3	C$ 5,481.3	C$ 21,133.8	$ 66,838.6
Less Ineligibles:														
(a) Standard Price Variance	C$ -	C$ -	C$ -	C$ -	C$ -	C$ -	C$ -	C$ -	C$ -	C$ -	C$ -	C$ -	C$ -	$ -
(b) Closed Store Inventory	C$ -	C$ -	C$ -	C$ -	C$ -	C$ -	C$ -	C$ -	C$ -	C$ -	C$ -	C$ -	C$ -	$ -
(c) Shrink Reserve	C$ -	C$ -	C$ -	C$ -	C$ -	C$ -	C$ -	C$ -	C$ -	C$ -	C$ -	C$ -	C$ -	$ 46.3
(d) Unprocessed Damages/Returns to Vendors	C$ -	C$ -	C$ -	C$ -	C$ -	C$ -	C$ -	C$ -	C$ -	C$ -	C$ -	C$ -	C$ -	$ 50.0
(e) Locked Status Inventory	C$ 3.5	C$ -	C$ -	C$ 3.7	C$ -	C$ -	C$ 4.5	C$ -	C$ -	C$ 13.3	C$ -	C$ -	C$ 25.0	$ 19.5
(f) Defect Returns	C$ -	C$ -	C$ -	C$ -	C$ -	C$ -	C$ -	C$ -	C$ -	C$ -	C$ -	C$ -	C$ -	$ -
(g) Inventory Adjustments - Perpetual	C$ -	C$ -	C$ -	C$ -	C$ -	C$ -	C$ -	C$ -	C$ -	C$ -	C$ -	C$ -	C$ -	$ (458.2)
(h) DC/ Shrink Reserve	C$ (34.4)	C$ -	C$ -	C$ (36.6)	C$ (33.5)	C$ (21.7)	C$ (44.5)	C$ -	C$ (0.0)	C$ (131.0)	C$ (86.7)	C$ (136.0)	C$ (524.2)	$ (408.9)
(i) Other Ineligible per Credit Agreement	C$ -	C$ -	C$ -	C$ -	C$ -	C$ -	C$ -	C$ -	C$ -	C$ -	C$ -	C$ -	C$ -	$ -
(j) LCM Inventory Reserve	C$ 37.0	C$ -	C$ -	C$ 39.4	C$ -	C$ -	C$ 47.9	C$ -	C$ -	C$ 141.0	C$ -	C$ -	C$ 265.3	$ 1,303.5
(k) Availability Reserve	C$ -	C$ -	C$ -	C$ -	C$ -	C$ -	C$ -	C$ -	C$ -	C$ -	C$ -	C$ -	C$ -	$ -
Total Ineligibles	6.1	-	-	6.5	(33.5)	(21.7)	7.9	-	(0.0)	23.3	(86.7)	(136.0)	(233.9)	552.3
Net Eligible Inventory	$ 1,380.7	$ -	$ -	1,468.5	1,383.1	894.5	1,786.3	-	0.1	5,256.4	3,580.9	5,617.3	C$ 21,367.7	$ 66,286.3
Exchange Rate	$/C$ 0.7800	$/C$ 0.7800	$/C$ 0.7800	0.7800	0.7800	0.7800	0.7800	0.7800	0.7800	0.7800	0.7800	0.7800		
Inventory Component means:														
Advance Rate	90.0%	90.0%	90.0%	90.0%	90.0%	90.0%	90.0%	90.0%	90.0%	90.0%	90.0%	90.0%		
x NOLV Percentage	55.4%	68.6%	48.1%	55.4%	68.6%	48.1%	55.4%	68.6%	48.1%	62.8%	68.6%	48.1%		
(ii) % of Eligible Inventory	49.86%	61.74%	43.29%	49.86%	61.74%	43.29%	49.86%	61.74%	43.29%	56.52%	61.74%	43.29%		
Inventory availability	**$ 537.0**	**$ -**	**$ -**	**571.1**	**666.1**	**302.0**	**694.7**	**-**	**0.0**	**2,317.3**	**1,724.5**	**1,895.8**	**$ 8,709.4**	**$ 39,729.6**

Rockport Group LLC
Borrowing Base Certificate

Company Name: The Rockport Group, LLC As Of: 04/15/18

(In 000's)

		The Rockport Company, LLC	Total USD	Rockport Canada ULC	Total CAD	Total Consolidated
4.	**Availability Reserves**					
(a)	A/R Dilution Reserve	$ -	$ -	C$	C$ -	-
(b)	Gift Cards/ Gift Certificates - US	$ 44.1	$ 44.1	C$ 5.6	C$ 5.6	48.5
(c)	Merchandise Credits	$ 25.7	$ 25.7	C$ 4.9	C$ 4.9	29.5
(d)	Texas Sales Taxes - US	$ 12.0	$ 12.0	C$ -	C$ -	12.0
(e)	Texas Personal Property Taxes - US	$ 10.0	$ 10.0	C$ -	C$ -	10.0
(f)	Wage Lien	$ 25.0	$ 25.0	C$ -	C$ -	25.0
(g)	WEPPA - Canada	$ -	$ -	C$ 750.0	C$ 750.0	585.0
(h)	Priority Payables - Payroll Deductions - Canada	$ -	$ -	C$ 75.0	C$ 75.0	58.5
(i)	Priority Payables - QST/GST - Canada	$ -	$ -	C$ -	C$ -	-
(j)	Landlord Lien Rent	$ 123.0	$ 123.0	C$ 498.0	C$ 498.0	511.4
(k)	Rent Reserve - US/ Canada	$ 1,850.0	$ 1,850.0	C$ 1,150.0	C$ 1,150.0	2,747.0
(l)	Returns Reserve -	$ 369.3	$ 369.3	C$ 144.2	C$ 144.2	481.8
(m)	Amounts due to US Customs	$ 1,000.0	$ 1,000.0	C$	C$ -	1,000.0
(n)	Freight and Duty Reserve	$ -	$ -	C$ -	C$ -	-
(o)	Other Ineligible per Credit Agreement	$ -	$ -	C$ -	C$ -	-
	Exchange Rate		$	$/C$ 0.8		
	Total Availability Reserves	$ 3,459.1	$ 3,459.1	$ 2,049.6	C$ 2,627.7	$ 5,508.7

5.	**Total Gross Availability**			$ 61,950
	Lesser of	Calculated Gross Availability	$ 61,950.3	
	OR	Line limit	$ 60,000.0	

		Total USD	Total CAD
6.	Loan Balance in applicable currency (including Swingline Loans)	$ 50,903.8	C$ -
	Exchange Rate		$/C$ 0.7800
	Loan Balance	$ 50,903.8	$ -

Total Gross Availability	$ 61,950
< $60MM or Total Gross Availability	$ 60,000
Availability Block	$ 3,000
Outstanding letter of credits	$ 3,550
Borrowing Availability	$ 53,450
Loan Balance @ 4/26/18	$ 47,585

9.	NET AVAILABILITY (line 5 minus the total of lines 6 & 7)	**Net Availability** $ 5,865

CERTIFICATION

(A) Borrower hereby certifies that they are not in default under the Security Agreement or any of the Borrower's liabilities.

(B) No remittances have been received from or returns and allowances granted to any debtors whose accounts have been assigned to Citizens Business Capital, a division of Citizens Asset Finance, Inc. other than previously reported.

(C) We hereby assign to Citizens Business Capital, a division of Citizens Asset Finance, Inc. all accounts which came into existence since our last Certificate, all right, title, and interest of the undersigned in and to the goods represented thereby, and all monies due to or to become due thereby.

Date prepared: 26-Apr-18

I hereby certify that the above information is true and accurate.

Prepared by: A. Cefalo; C. Allen

Authorized Signature: _____

EXHIBIT 3

Proposed ABL Liability Allocation

THE ROCKPORT COMPANY, LLC, et al.,

Illustrative ABL Revolving Loan Allocation Methodology - Borrowing Base Collateral Allocation to Canada (As of April 15, 2018)
($ in thousands)

Both the gross and net asset values shown below are from the April 15, 2018 Borrowing Base Certificate and represent U.S. and Canadian collateral securing the ABL Revolving Loan

Adjustments made to arrive at net collateral values comprise three main components:
- NOLV; The Net Orderly Liquidation Value represents the proceeds from the liquidation of inventory after all associated direct operating costs and liquidator fees have been deducted
- Reserves; Reserves are established to discount collateral value for aged A/R and inventory, difficult to collect A/R, shrink reserves, inventory that may not be readily accessible due to location, etc.
- Advance components; Represent an additional haircut to collateral values established by the ABL lenders to account for any additional risk

		U.S.	Canada	Total	Canada % of Total
	Credit Card A/R				
	Gross	**$469.5**	**$262.2**	**$731.7**	**35.8%**
	Adjustments	(109.8)	(49.2)	(159.0)	
a	**Net**	**$359.7**	**$213.0**	**$572.7**	**37.2%**
	Other A/R				
	Gross	**$37,649.0**	**$6,626.4**	**$44,275.4**	**15.0%**
	Adjustments	(15,022.7)	(2,096.1)	(17,118.8)	
b	**Net**	**$22,626.3**	**$4,530.3**	**$27,156.6**	**16.7%**
	Inventory at DC & In-Transit				
	Gross	**$36,432.6**	**$7,749.8**	**$44,182.4**	**17.5%**
	Adjustments	(11,850.4)	(3,629.8)	(15,480.1)	
c	**Net**	**$24,582.2**	**$4,120.1**	**$28,702.3**	**14.4%**
	Inventory at Retail Stores				
	Gross	**$13,921.6**	**$8,734.5**	**$22,656.2**	**38.6%**
	Adjustments	(7,483.6)	(4,145.2)	(11,628.8)	
d	**Net**	**$6,438.0**	**$4,589.4**	**$11,027.4**	**41.6%**
	Other Reserves				
e	**Total**	**($3,459.1)**	**($2,049.6)**	**($5,508.7)**	**37.2%**
	Total Collateral Value				
=a+b+c+d+e	**Net**	**$50,547.2**	**$11,403.1**	**$61,950.3**	**18.4%**

ABL Revolver Balance Allocation	
ABL Revolver Balance [1]	$53,450
x Allocation to Canada (Net)	18.4%
Implied ABL Revolver Balance Attributable to Canada	**$9,838**

Notes

Canadian Dollars translated at an FX exchange rate of CAD/USD of 0.78
(1) Reflects the current maximum borrowing availability under the ABL Revolving Credit Facility as of May 13, 2018 ($60M less $3M block and $3.55M of undrawn L/Cs). To the extent L/Cs are drawn, the Revolver Balance would increase by the amount of the draw

Tab L

THIS IS EXHIBIT "L" TO THE AFFIDAVIT

OF PAUL KOSTUROS SWORN BEFORE ME

ON THIS 19TH DAY OF JULY, 2018

Lesley A. Morris

A Notary Public in and for the State of Delaware

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

IN RE:	Chapter 11
THE ROCKPORT COMPANY, LLC, *et al.*,	Case No. 18-11145 (LSS)
Debtors.	Courtroom No. 2 824 Market Street North Wilmington, Delaware 19801
	Monday, June 18, 2018
	11:02 A.M.

TRANSCRIPT OF HEARING
BEFORE HONORABLE LAURIE SELBER SILVERSTEIN
UNITED STATES BANKRUPTCY JUDGE

APPEARANCES:

For the Debtors: Amanda R. Steele, Esquire
RICHARDS, LAYTON & FINGER, P.A.
One Rodney Square
920 North King Street
Wilmington, Delaware 19801

For the Noteholders: James E. O'Neill, Esquire
PACHULSKI STANG ZIEHL & JONES LLP
919 North Market Street
17th Floor
Wilmington, Delaware 19801

(APPEARANCES CONTINUED)
ECRO: Michael Miller, ECRO

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Proceedings recorded by electronic sound recording:
transcript produced by transcription service.

APPEARANCES (Continued):

For the Trustee:

Brya M. Keilson, Esquire
OFFICE OF THE UNITED STATES TRUSTEE
844 King Street
Suite 2207
Lockbox 35
Wilmington, Delaware 19801

INDEX

(Proceedings commenced at 11:02 a.m.)

THE COURT: Please be seated. Okay. Thanks, everyone.

We're back here for the continued DIP hearing and as I indicated to everyone, I wanted to give this some thought because it's an unusual request, this request to determine an allocation of debt in the context that we're in, I'm sure the parties gathered from the questions that I was asking at the hearing last week. I think, probably, to each of the counsel who stood up, I was struggling with the procedural posture, as well as the standard by which I was to make the decision.

After giving this some considerable thought, I am declining to resolve this issue at this time and I do so for multiple reasons. First, I continue to struggle with the procedural posture and the standard to apply. No party briefed these issues. I think they require some guidance or an agreed-upon process.

While the debtors said that they were willing to take the burden on the -- this request, that does not fully answer the questions that I posed. It feels like the debtors are appending a request for a declaratory judgment onto a DIP motion.

And while I recognize that there may be a rational basis for the prepetition noteholders to want to know this

allocation prior to making a lending decision, I do not feel I can provide it to them at this time. I'll note, somewhat in passing, that the prepetition noteholders themselves did not prosecute the request and fundamentally, this appears to be a dispute between the noteholders and the Canadian unsecured creditors and possibly the U.S. debtor, unsecured creditors, though I'm not entirely sure of that.

Second, of course, we had a --

(Recess taken at 11:05 a.m.)

(Proceedings resumed at 11:18 a.m.)

THE COURT OFFICER: Please rise.

THE COURT: Please be seated.

And I apologize for that. I understand we are back on the record, okay. I was going through my reasoning for my decision. I will start off with the second reason, which is where I think we ended there. As I said, there is an objection, the information officer for the Canadian entity filed the objection indicating he needed more information or it needed more information in order to make an informed decision regarding a proper allocation of the ABL debt.

The matter did go out on notice, but we are in the first few weeks of this case. There is a necessity, less than a perfect information flow at this stage of the case, and the focus of the prepetition noteholders appear to be with the committee, which is not a criticism; it's just an

observation.

Third, although the debtors put on testimony, I don't feel like I have a complete record on which to base a decision, whatever the standard might be. I am left with multiple questions on the appropriateness of the methodology, although, it ultimately might be appropriate.

Fourth, I do not understand how this allocation interfaces with the committee's settlement, which was just reached moments before the hearing and was not yet documented at the time of the hearing; again, not a criticism, just an observation.

I am not sure that the debtors, committee, or the prepetition noteholders had time to consider the interface or fully appreciate the ramifications. I know I don't fully appreciate the ramifications of the request on other actions in this case.

Let me add that the proposed allocation at 18.4 percent could be a good result for the Rockport Canadian unsecured creditors and there is no assurance that a resolution in the future will be as favorable as that result, but, again, I'm not prepared at this point for the reasons I've stated, to make an allocation.

But I want to be clear that I'm open to the concept of resolving this dispute. I'm not foreclosing it in any sense. I think we need to ensure that we are in the

proper context with full information.

I am prepared to approve the DIP financing with the committee compromise in place. I understood that the Office of the United States Trustee might have had an issue, but that that has been resolved, but let me know if that is not the case. And I also, of course, understand that the parties will need some time, perhaps, to absorb my decision today and, of course, I know that the debtor needs funding, although, it can get it through the week.

So, I also recognize, of course, that I've got many, many parties on the phone. I'm sure the Blackberries or the iPhones -- I guess I'm behind the times -- the iPhones are going, but I realize that the parties will need some time to discuss. So, let me know what you would like.

Ms. Steele?

MS. STEELE: Thank you, Your Honor. Amanda Steele, Richards, Layton & Finger, on behalf of the debtors.

I agree, we will need some time to discuss, so our intent is to meet-and-confer between the parties on the best course of action proceeding forward, and we will be in touch with your chambers.

I think the notes might want to say something on the record.

THE COURT: Mr. O'Neill?

MR. O'NEILL: Yes, Your Honor. Good morning.

James O'Neill, on behalf of the noteholders.

Your Honor, thank you for your ruling. Honestly, as I'm sure you know, it's not the ruling that we had hoped for, but thank you for the time and for your analysis and thoughtful reflection.

The allocation -- and we are certainly willing to work with the parties and continue to work with the parties on all issues. We're pleased that the DIP, D-I-P, financing is otherwise approved, and I do note that a resolution of the allocation issue is a condition for additional borrowing, so I just wanted to put that on the record and, otherwise, we will work with the parties on a form of order so that we can submit something to Your Honor that reflects the ruling. But the resolution of the allocation is a condition to new borrowing.

THE COURT: And I understand that and I'm sure the parties in the room understand that, as well.

MR. O'NEILL: Thank you, Your Honor.

THE COURT: Ms. Keilson?

MS. KEILSON: Good morning, Your Honor. Brya Keilson, on behalf of the United States Trustee.

We do have some concerns with regard to the potential form of order and the term sheet. Nothing, as you noted, has been reduced to writing, so it's hard right now to know whether or not it is going to be fully resolved or not.

We have discussed at length with the counsel for the committee regarding a potential resolution with regard to our concerns. They've indicated a willingness to work with us, but at this point, all of our issues have not been addressed or resolved.

THE COURT: Okay.

MS. KEILSON: So, we reserve all rights, with regard to that.

THE COURT: Thank you.

MS. KEILSON: Thank you.

THE COURT: Thank you for that information.

Anything else? Anyone else in the courtroom or on the phone that needs to put something on the record?

(No verbal response)

THE COURT: Okay. I hear no one.

Well, I am in all this week and we will obviously work you in to -- if we need further hearing on anything. So, just get in touch with Ms. Johnson.

Okay. Thank you, everyone. We're adjourned.

(Proceedings concluded at 11:25 a.m.)

CERTIFICATION

I certify that the foregoing is a correct transcript from the electronic sound recording of the proceedings in the above-entitled matter to the best of my knowledge and ability.

/s/ William J. Garling June 18, 2018

William J. Garling, CET**D-543

Certified Court Transcriptionist

For Reliable

Tab 3

Court File No. CV-18-597987-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

THE HONOURABLE	)	**FRIDAY THE 20TH**
	)	
JUSTICE MCEWEN	)	**DAY OF JULY, 2018**

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED

AND IN THE MATTER OF ROCKPORT BLOCKER, LLC, THE ROCKPORT GROUP HOLDINGS, LLC, TRG 1-P HOLDINGS, LLC, TRG INTERMEDIATE HOLDINGS, LLC, TRG CLASS D, LLC, THE ROCKPORT GROUP, LLC, THE ROCKPORT COMPANY, LLC, DRYDOCK FOOTWEAR, LLC, DD MANAGEMENT SERVICES LLC AND ROCKPORT CANADA ULC (THE "DEBTORS")

APPLICATION OF ROCKPORT BLOCKER, LLC, UNDER SECTION 46 OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED

O R D E R
(Sale/Final DIP/Retention/Intercompany Transfer Order)

THIS MOTION, made by Rockport Blocker, LLC ("**Rockport Blocker**"), in its capacity as the foreign representative (the "**Foreign Representative**") of the Debtors, pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**") for an Order substantially in the form enclosed in the Motion Record was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the affidavit of Paul Kosturos sworn July 19, 2018 and the exhibits thereto (the "**Third Kosturos Affidavit**"), the second report of Richter Advisory Group Inc. ("**Richter**") in its capacity as the Court-appointed information officer (the "**Information Officer**") dated July 19, 2018 (the "**Second Report**"), and on hearing the submissions of counsel

for the Debtors, counsel for the Information Officer, counsel for Citizens Business Capital, in its capacity as Administrative Agent and Collateral Agent for the lenders under the Senior Secured Super-Priority Debtor-in-Possession Revolving Credit Agreement (the "**DIP ABL Agent**"), counsel for the Senior Secured Noteholders and DIP Note Lenders, counsel for The Cadillac Fairview Corporation Limited, counsel for Cushman & Wakefield Asset Services Inc., Ivanhoe Cambridge Inc., RioCan Real Estate Investment Trust, counsel for Montez Hillcrest Inc., Hillcrest Holdings Inc., Scarborough Town Centre Holdings Inc., Oxford Properties Retail Holdings Inc., Oxford Properties Retail Holdings II Inc. and Yorkdale Shopping Centre Holdings Inc., and upon no one appearing for any other parties although duly served as appears from the Affidavit of Service of Mariela Adriana Gasparini sworn July 19, 2018, filed,

SERVICE

1. **THIS COURT ORDERS** that the time for service and filing of the Notice of Motion and the Motion Record is hereby abridged and validated so that this motion is properly returnable today and hereby dispenses with further service thereof.

2. **THIS COURT ORDERS** that any capitalized terms not otherwise defined herein shall have the meanings given to such terms in the Third Kosturos Affidavit.

RECOGNITION OF FOREIGN ORDERS

3. **THIS COURT ORDERS** that the following orders of the United States Bankruptcy Court for the District of Delaware (the "**US Court**") made in the insolvency proceedings of the Debtors under Chapter 11 of Title 11 of the United States Bankruptcy Code are hereby recognized and

given full force and effect in all provinces and territories of Canada pursuant to Section 49 of the CCAA:

a. an order, *inter alia*, (i) authorizing the Debtors to employ and retain Houlihan Lokey Capital, Inc. ("**Houlihan Lokey**") as their financial advisor and investment banker, *nunc pro tunc,* to the Filing Date, pursuant to that certain engagement letter dated December 11, 2017, a copy of which is attached to the Houlihan Retention Order as Exhibit 1 (the "**Houlihan Engagement Letter**"), by and between Houlihan Lokey and Rockport; (ii) approving the terms of the Houlihan Engagement Letter; (iii) waiving certain time-keeping requirements pursuant to Rule 2016-2(h) of the Local Rules of Bankruptcy Practice and Procedure of the US Court; and (iv) granting related relief (the "**Houlihan Retention Order**");

b. a final order, *inter alia*, (i) approving post-Petition financing; (ii) granting liens and super-priority administrative expense claim status to the DIP ABL Agent on its own behalf and on behalf of the DIP ABL Lenders (as defined in the First Day Declaration); and (iii) modifying the automatic stay (the "**Final DIP Financing Order**");

c. an order, *inter alia*, (i) authorizing and approving the sale (the "**Sale**") of the Purchased Assets (as defined in the asset purchase agreement dated as of May 13, 2018 (the "**Stalking Horse Agreement**") between the Debtors and Rockport Canada Holdings Ltd. (collectively, the "**Sellers**") and CB Marathon Opco, LLC ("**Marathon**"), an affiliate of Charlesbank Equity Fund IX, Limited Partnership, to Marathon of such assets as determined in accordance with the Bidding Procedures,

free and clear of all liens, claims, interests and encumbrances, except certain permitted encumbrances as determined by the Sellers and Marathon; (ii) authorizing the assumption and assignment of certain executory contracts and unexpired leases in connection with the proposed Sale and (iii) granting related relief (the "**Sale Order**"); and

d. an order approving stipulation modifying final cash management order to permit intercompany transfers between Rockport Canada ULC and The Rockport Company, LLC (the "**Intercompany Payment Order**");

provided, however, that in the event of any conflict between the terms of the Houlihan Retention Order, the Final DIP Financing Order, the Sale Order, the Intercompany Payment Order and the Orders of this Court made in these proceedings, the Orders of this Court shall govern with respect to the Property (as defined in the Supplemental Order (Foreign Main Proceeding) of this Court made in these proceedings on May 16, 2018) in Canada. Copies of the Houlihan Retention Order, the Final DIP Financing Order, the Sale Order and the Intercompany Payment Order are attached as Exhibits "**F**" to "**I**" to the Third Kosturos Affidavit.

VESTING OF PURCHASED ASSETS AND APPLICATION OF SALE PROCEEDS

4. **THIS COURT ORDERS AND DECLARES** that, upon the delivery of a Foreign Representative certificate to the Purchaser, substantially in the form attached as Schedule A hereto (the "**Foreign Representative Certificate**"), all of the Sellers right, title and interest in and to the Purchased Assets (as defined in the Stalking Horse Agreement), shall vest absolutely in the Purchaser, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual,

statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the "**Claims**") including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Supplemental Order (Foreign Main Proceeding) dated May 16, 2018; and (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system (all of which are collectively referred to as the "**Encumbrances**"), and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets.

5. **THIS COURT ORDERS** that for the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Purchased Assets (as defined in the Stalking Horse Agreement) shall stand in the place and stead of the Purchased Assets, and that from and after the delivery of the Foreign Representative Certificate, all Claims and Encumbrances shall attach to the net proceeds from the sale of the Purchased Assets with the same priority as they had with respect to the Purchased Assets immediately prior to the sale, as if the Purchased Assets (as defined in the Stalking Horse Agreement) had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale and this Court further orders that the proceeds of the sale shall be applied as set forth in paragraph 28 and paragraph 29 of the Sale Order.

6. **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the Canada *Personal Information Protection and Electronic Documents Act*, the Sellers are authorized and permitted to disclose and transfer to the Purchaser all human resources and payroll information in the Sellers records pertaining to the Sellers past and current employees. The Purchaser shall

maintain and protect the privacy of such information and shall be entitled to use the personal information provided to it in a manner which is in all material respects identical to the prior use of such information by the Sellers.

7. **THIS COURT ORDERS** that, notwithstanding:

(a) the pendency of these proceedings;

(b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) in respect of Rockport Canada ULC ("**Rockport Canada**") and any bankruptcy order issued pursuant to any such applications; and

(c) any assignment in bankruptcy made in respect of Rockport Canada;

the vesting of the Purchased Assets in the Purchaser pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of Rockport Canada and shall not be void or voidable by creditors of the Sellers, nor shall it constitute nor be deemed to be a fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the *Bankruptcy and Insolvency Act* (Canada) or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

GENERAL

8. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Foreign Representative, the Sellers, the Information Officer

and their respective agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Foreign Representative, the Sellers, the Information Officer, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Foreign Representative, the Sellers, the Information Officer and their respective agents in carrying out the terms of this Order.

9. **THIS COURT ORDERS** that each of the Foreign Representative, the Debtors and the Information Officer be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order.

Schedule A – Form of Foreign Representative Certificate

Court File No. _____

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED

AND IN THE MATTER OF ROCKPORT BLOCKER, LLC, THE ROCKPORT GROUP HOLDINGS, LLC, TRG 1-P HOLDINGS, LLC, TRG INTERMEDIATE HOLDINGS, LLC, TRG CLASS D, LLC, THE ROCKPORT GROUP, LLC, THE ROCKPORT COMPANY, LLC, DRYDOCK FOOTWEAR, LLC, DD MANAGEMENT SERVICES LLC AND ROCKPORT CANADA ULC (THE "DEBTORS")

APPLICATION OF ROCKPORT BLOCKER, LLC, UNDER SECTION 46 OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED

FOREIGN REPRESENTATIVE CERTIFICATE

RECITALS

A. All capitalized terms used and not otherwise defined herein shall have the meanings ascribed thereto in the asset purchase agreement dated as of May 13, 2018 between the Debtors and Rockport Canada Holdings Ltd. (collectively, the "**Sellers**") and CB Marathon Opco, LLC (the "**Purchaser**"), an affiliate of Charlesbank Equity Fund IX, Limited Partnership (the "**Stalking Horse Agreement**").

B. Pursuant to the Initial Recognition Order (Foreign Main Proceeding) and Supplemental Order (Foreign Main Proceeding) of the Honourable Justice McEwen of the Ontario Superior Court of Justice (Commercial List) (the "**Court**") each dated May 16, 2018, Rockport Blocker, LLC was appointed as the foreign representative (the "**Foreign Representative**") of the undertaking, property and assets of The Rockport Company, LLC, Rockport Blocker, LLC, The Rockport Group Holdings, LLC, TRG 1-P Holdings, LLC, TRG Intermediate Holdings, LLC, TRG Class D, LLC, The Rockport Group, LLC, Drydock Footwear, LLC, DD Management Services LLC and Rockport Canada ULC (the "**Debtors**").

C. Pursuant to an Order of the Court dated July 20, 2018, the Court approved the Stalking Horse Agreement between the Sellers and the Purchaser and provided for the vesting in the Purchaser of the Seller's right, title and interest in and to the Purchased Assets, which vesting is to be effective with respect to the Purchased Assets upon the delivery by the Foreign Representative to the Purchaser of a certificate confirming (i) the payment by the Purchaser of the Purchase Price for the Purchased Assets; (ii) that the conditions to Closing as set out in Article X of the Stalking Horse Agreement have been satisfied or waived by the Sellers and the Purchaser; and (iii) the Transaction has been completed to the satisfaction of the Foreign Representative.

D. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Stalking Horse Agreement.

THE FOREIGN REPRESENTATIVE CERTIFIES the following:

1. The Purchaser has paid the Purchase Price for the Purchased Assets payable on the Closing Date pursuant to the Staking Horse Agreement;

2. The conditions to Closing as set out in Article X of the Stalking Horse Agreement have been satisfied or waived by the Sellers and the Purchaser; and

3. The Transaction has been completed to the satisfaction of the Foreign Representative.

4. This Certificate was delivered by the Foreign Representative at _____ [TIME] on _____ [DATE].

ROCKPORT BLOCKER, LLC, in its capacity as Foreign Representative of the Debtors, and not in its personal capacity

Per: _____

Name:

Title:

Court File No.: CV-18-597987-00CL

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED
AND IN THE MATTER OF ROCKPORT BLOCKER, LLC, THE ROCKPORT GROUP HOLDINGS, LLC, TRG 1-P HOLDINGS, LLC, TRG INTERMEDIATE HOLDINGS, LLC, TRG CLASS D, LLC, THE ROCKPORT GROUP, LLC, THE ROCKPORT COMPANY, LLC, DRYDOCK FOOTWEAR, LLC, DD MANAGEMENT SERVICES LLC AND ROCKPORT CANADA ULC (THE "DEBTORS")

APPLICATION OF ROCKPORT BLOCKER, LLC, UNDER SECTION 46 OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED

TOR01: 7461802: v10

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

PROCEEDINGS COMMENCED AT TORONTO

ORDER
(Sale/Final DIP/Retention/Intercompany Transfer Order)

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Court File No.: CV-18-597987-00CL

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APPLICATION OF ROCKPORT BLOCKER, LLC, UNDER SECTION 46 OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED

TOR01: 7500759: v2

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

PROCEEDINGS COMMENCED AT TORONTO

MOTION RECORD

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(Returnable July 20, 2018)

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