



Direct Line: 614-729-2325
E-Mail: jeinstein@volunteerenergy.com

July 30, 2018

VIA ELECTRONIC FILING

Public Utilities Commission of Ohio
Docketing Division
180 E. Broad Street
Columbus, Ohio 43215

Re: In the matter of the Application of Volunteer
Energy Services, Inc. for Renewal of Certification
as a Competitive Retail Natural Gas Supplier
Case No. 02-1786-GA-CRS

Dear Sir/Madam:

Please see the attached Renewal Certification Application Competitive Retail Natural Gas Supplier to be filed in the above matter.

Very truly yours,

VOLUNTEER ENERGY SERVICES, INC.

/s/ John L. Einstein, IV, Esq.

John L. Einstein, IV, Esq.



PUCO USE ONLY – Version 1.08 May 2016		
Date Received	Renewal Certification Number	ORIGINAL CRS Case Number
		02 -1786 - GA-CRS

RENEWAL CERTIFICATION APPLICATION COMPETITIVE RETAIL NATURAL GAS SUPPLIERS

Please **type or print** all required information. Identify all attachments with an exhibit label and title (*Example: Exhibit A-15 - Company History*). All attachments should bear the legal name of the Applicant. Applicants should file completed applications and all related correspondence with the Public Utilities Commission of Ohio, Docketing Division, 180 East Broad Street, Columbus, Ohio 43215-3793.

This PDF form is designed so that you may directly input information onto the form. You may also download the form by saving it to your local disk.

SECTION A - APPLICANT INFORMATION AND SERVICES

A-1 Applicant intends to renew its certificate as: (check all that apply)

☒ Retail Natural Gas Aggregator ☒ Retail Natural Gas Broker ☒ Retail Natural Gas Marketer

A-2 Applicant information:

Legal Name Volunteer Energy Services, Inc.
Address 790 Windmill Drive, Pickerington, Ohio 43147

Telephone No. 1-800-977-8374 Web site Address www.volunteerenergy.com

Current PUCO Certificate No. 02-022G(8) Effective Dates September 1, 2016 - September 1, 2018

A-3 Applicant information under which applicant will do business in Ohio:

Name Volunteer Energy Services, Inc.
Address 790 Windmill Drive, Pickerington, Ohio 43147

Web site Address www.volunteerenergy.com Telephone No. 1-800-977-8374

A-4 List all names under which the applicant does business in North America:

Volunteer Energy Services, Inc.
Volunteer Energy

A-5 Contact person for regulatory or emergency matters:

Name John L. Einstein, IV, Esq. Title General Counsel

Business Address 790 Windmill Drive, Pickerington, Ohio 43147

Telephone No. 614-729-2325 Fax No. 614-729-2325 Email Address jeinstein@volunteerenergy.com

A-6 Contact person for Commission Staff use in investigating customer complaints:

Name Kevin Smith Title Account Manager
Business address 790 Windmill Drive, Pickerington, Ohio 43147
Telephone No. 614-328-2955 Fax No. 614-328-2956 Email Address ksmith@volunteerenergy.com

A-7 Applicant's address and toll-free number for customer service and complaints

Customer service address 790 Windmill Drive, Pickerington, Ohio 43147
Toll-Free Telephone No. 1-800-977-8374 Fax No. 614-328-2956 Email Address ksmith@volunteerenergy.com

A-8 Provide "Proof of an Ohio Office and Employee," in accordance with Section 4929.22 of the Ohio Revised Code, by listing name, Ohio office address, telephone number, and Web site address of the designated Ohio Employee

Name Richard A. Curnutte, Sr. Title President
Business address 790 Windmill Drive, Pickerington, Ohio 43147
Telephone No. 614-856-3128 Fax No. 614-856 Email Address rcurnutte@volunteerenergy.com

A-9 Applicant's federal employer identification number 31-1772693

A-10 Applicant's form of ownership: (Check one)

- | | |
|--|--|
| <input type="checkbox"/> Sole Proprietorship | <input type="checkbox"/> Partnership |
| <input type="checkbox"/> Limited Liability Partnership (LLP) | <input type="checkbox"/> Limited Liability Company (LLC) |
| <input checked="" type="checkbox"/> Corporation | <input type="checkbox"/> Other |

A-11 (Check all that apply) Identify each natural gas company service area in which the applicant is currently providing service or intends to provide service, including identification of each customer class that the applicant is currently serving or intends to serve, for example: *residential, small commercial, and/or large commercial/industrial (mercantile) customers*. (A mercantile customer, as defined in Section 4929.01(L)(1) of the Ohio Revised Code, means a customer that consumes, other than for residential use, more than 500,000 cubic feet of natural gas per year at a single location within the state or consumes natural gas, other than for residential use, as part of an undertaking having more than three locations within or outside of this state. In accordance with Section 4929.01(L)(2) of the Ohio Revised Code, "Mercantile customer" excludes a not-for-profit customer that consumes, other than for residential use, more than 500,000 cubic feet of natural gas per year at a single location within this state or consumes natural gas, other than for residential use, as part of an undertaking having more than three locations within or outside this state that has filed the necessary declaration with the Public Utilities Commission.)

<input checked="" type="checkbox"/>	Columbia Gas of Ohio	<input checked="" type="checkbox"/>	Residential	<input checked="" type="checkbox"/>	Small Commercial	<input checked="" type="checkbox"/>	Large Commercial / Industrial
<input checked="" type="checkbox"/>	Dominion East Ohio	<input checked="" type="checkbox"/>	Residential	<input checked="" type="checkbox"/>	Small Commercial	<input checked="" type="checkbox"/>	Large Commercial / Industrial
<input checked="" type="checkbox"/>	Duke Energy Ohio	<input checked="" type="checkbox"/>	Residential	<input checked="" type="checkbox"/>	Small Commercial	<input checked="" type="checkbox"/>	Large Commercial / Industrial
<input checked="" type="checkbox"/>	Vectren Energy Delivery of Ohio	<input checked="" type="checkbox"/>	Residential	<input checked="" type="checkbox"/>	Small Commercial	<input type="checkbox"/>	Large Commercial / Industrial

A-12 If applicant or an affiliated interest previously participated in any of Ohio's Natural Gas Choice Programs, for each service area and customer class, provide approximate start date(s) and/or end date(s) that the applicant began delivering and/or ended services.

☐ Columbia Gas of Ohio

<input type="checkbox"/>	Residential	Beginning Date of Service		End Date	
<input type="checkbox"/>	Small Commercial	Beginning Date of Service		End Date	
<input type="checkbox"/>	Large Commercial	Beginning Date of Service		End Date	
<input type="checkbox"/>	Industrial	Beginning Date of Service		End Date	

☐ Dominion East Ohio

<input type="checkbox"/>	Residential	Beginning Date of Service		End Date	
<input type="checkbox"/>	Small Commercial	Beginning Date of Service		End Date	
<input type="checkbox"/>	Large Commercial	Beginning Date of Service		End Date	
<input type="checkbox"/>	Industrial	Beginning Date of Service		End Date	

☐ Duke Energy Ohio

<input type="checkbox"/>	Residential	Beginning Date of Service		End Date	
<input type="checkbox"/>	Small Commercial	Beginning Date of Service		End Date	
<input type="checkbox"/>	Large Commercial	Beginning Date of Service		End Date	
<input type="checkbox"/>	Industrial	Beginning Date of Service		End Date	

☐ Vectren Energy Delivery of Ohio

<input type="checkbox"/>	Residential	Beginning Date of Service		End Date	
<input type="checkbox"/>	Small Commercial	Beginning Date of Service		End Date	
<input type="checkbox"/>	Large Commercial	Beginning Date of Service		End Date	
<input type="checkbox"/>	Industrial	Beginning Date of Service		End Date	

A-13 If not currently participating in any of Ohio's four Natural Gas Choice Programs, provide the approximate start date that the applicant proposes to begin delivering services:

<input type="checkbox"/>	Columbia Gas of Ohio	Intended Start Date	
<input type="checkbox"/>	Dominion East Ohio	Intended Start Date	
<input type="checkbox"/>	Duke Energy Ohio	Intended Start Date	
<input type="checkbox"/>	Vectren Energy Delivery of Ohio	Intended Start Date	

PROVIDE THE FOLLOWING AS SEPARATE ATTACHMENTS AND LABEL AS INDICATED.

- A-14** Exhibit A-14 "Principal Officers, Directors & Partners," provide the names, titles, addresses and telephone numbers of the applicant's principal officers, directors, partners, or other similar officials.
- A-15** Exhibit A-15 "Company History," provide a concise description of the applicant's company history and principal business interests.
- A-16** Exhibit A-16 "Articles of Incorporation and Bylaws," provide the articles of incorporation filed with the state or jurisdiction in which the applicant is incorporated and any amendments thereto, *only if the contents of the originally filed documents changed since the initial application.*
- A-17** Exhibit A-17 "Secretary of State," provide evidence that the applicant is still currently registered with the Ohio Secretary of the State.

SECTION B - APPLICANT MANAGERIAL CAPABILITY AND EXPERIENCE

PROVIDE THE FOLLOWING AS SEPARATE ATTACHMENTS AND LABEL AS INDICATED

- B-1** Exhibit B-1 "Jurisdictions of Operation," provide a current list of all jurisdictions in which the applicant or any affiliated interest of the applicant is, at the date of filing the application, certified, licensed, registered, or otherwise authorized to provide retail natural gas service, or retail/wholesale electric services.
- B-2** Exhibit B-2 "Experience & Plans," provide a current description of the applicant's experience and plan for contracting with customers, providing contracted services, providing billing statements, and responding to customer inquiries and complaints in accordance with Commission rules adopted pursuant to Section 4929.22 of the Revised Code and contained in Chapter 4901:1-29 of the Ohio Administrative Code.
- B-3** Exhibit B-3 "Summary of Experience," provide a concise and current summary of the applicant's experience in providing the service(s) for which it is seeking renewed certification (e.g., number and types of customers served, utility service areas, volume of gas supplied, etc.).
- B-4** Exhibit B-4 "Disclosure of Liabilities and Investigations," provide a description of all existing, pending or past rulings, judgments, contingent liabilities, revocations of authority, regulatory investigations, or any other matter that could adversely impact the applicant's financial or operational

status or ability to provide the services for which it is seeking renewed certification since applicant last filed for certification.

- B-5 Exhibit B-5 "Disclosure of Consumer Protection Violations,"** disclose whether the applicant, affiliate, predecessor of the applicant, or any principal officer of the applicant has been convicted or held liable for fraud or for violation of any consumer protection or antitrust laws since applicant last filed for certification.

☒ No ☐ Yes

If Yes, provide a separate attachment labeled as Exhibit B-5 "Disclosure of Consumer Protection Violations," detailing such violation(s) and providing all relevant documents.

- B-6 Exhibit B-6 "Disclosure of Certification Denial, Curtailment, Suspension, or Revocation,"** disclose whether the applicant or a predecessor of the applicant has had any certification, license, or application to provide retail natural gas or retail/wholesale electric service denied, curtailed, suspended, or revoked, or whether the applicant or predecessor has been terminated from any of Ohio's Natural Gas Choice programs, or been in default for failure to deliver natural gas since applicant last filed for certification.

☒ No ☐ Yes

If Yes, provide a separate attachment, labeled as Exhibit B-6 "Disclosure of Certification Denial, Curtailment, Suspension, or Revocation," detailing such action(s) and providing all relevant documents.

SECTION C - APPLICANT FINANCIAL CAPABILITY AND EXPERIENCE

PROVIDE THE FOLLOWING AS SEPARATE ATTACHMENTS AND LABEL AS INDICATED

- C-1 Exhibit C-1 "Annual Reports,"** provide the two most recent Annual Reports to Shareholders. If applicant does not have annual reports, the applicant should provide similar information, labeled as Exhibit C-1, or indicate that Exhibit C-1 is not applicable and why.
(This is generally only applicable to publicly traded companies who publish annual reports.)
- C-2 Exhibit C-2 "SEC Filings,"** provide the most recent 10-K/8-K Filings with the SEC. If applicant does not have such filings, it may submit those of its parent company. An applicant may submit a current link to the filings or provide them in paper form. If the applicant does not have such filings, then the applicant may indicate in Exhibit C-2 that the applicant is not required to file with the SEC and why.
- C-3 Exhibit C-3 "Financial Statements,"** provide copies of the applicant's two most recent years of audited financial statements (balance sheet, income statement, and cash flow statement). If audited financial statements are not available, provide officer certified financial statements. If the applicant has not been in business long enough to satisfy this requirement, it shall file audited or officer certified financial statements covering the life of the business. If the applicant does not have a balance sheet, income statement, and cash flow statement, the applicant may provide a copy of its two most recent years of tax returns (with social security numbers and account numbers redacted).
- C-4 Exhibit C-4 "Financial Arrangements,"** provide copies of the applicant's current financial arrangements to conduct competitive retail natural gas service (CRNGS) as a business activity (e.g., guarantees, bank commitments, contractual arrangements, credit agreements, etc.)

Renewal applicants can fulfill the requirements of Exhibit C-4 by providing a current statement from an Ohio local distribution utility (LDU) that shows that the applicant meets the LDU's collateral requirements.

First time applicants or applicants whose certificate has expired as well as renewal applicants can meet the requirement by one of the following methods:

1. The applicant itself stating that it is investment grade rated by Moody's, Standard & Poor's or Fitch and provide evidence of rating from the rating agencies.
2. Have a parent company or third party that is investment grade rated by Moody's, Standard & Poor's or Fitch guarantee the financial obligations of the applicant to the LDU(s).
3. Have a parent company or third party that is not investment grade rated by Moody's, Standard & Poor's or Fitch but has substantial financial wherewithal in the opinion of the Staff reviewer to guarantee the financial obligations of the applicant to the LDU(s). The guarantor company's financials must be included in the application if the applicant is relying on this option.
4. Posting a Letter of Credit with the LDU(s) as the beneficiary.

If the applicant is not taking title to the electricity or natural gas, enter "N/A" in Exhibit C-4. An N/A response is only applicable for applicants seeking to be certified as an aggregator or broker.

C-5 Exhibit C-5 "Forecasted Financial Statements," provide two years of forecasted income statements for the applicant's **NATURAL GAS related business activities in the state of Ohio Only**, along with a list of assumptions, and the name, address, email address, and telephone number of the preparer. The forecasts should be in an annualized format for the two years succeeding the Application year.

C-6 Exhibit C-6 "Credit Rating," provide a statement disclosing the applicant's current credit rating as reported by two of the following organizations: Duff & Phelps, Fitch IBCA, Moody's Investors Service, Standard & Poor's, or a similar organization. In instances where an applicant does not have its own credit ratings, it may substitute the credit ratings of a parent or an affiliate organization, provided the applicant submits a statement signed by a principal officer of the applicant's parent or affiliate organization that guarantees the obligations of the applicant. If an applicant or its parent does not have such a credit rating, enter "N/A" in Exhibit C-6.

- C-7 Exhibit C-7 "Credit Report,"** provide a copy of the applicant's current credit report from Experion, Dun and Bradstreet, or a similar organization. An applicant that provides an investment grade credit rating for Exhibit C-6 may enter "N/A" for Exhibit C-7.
- C-8 Exhibit C-8 "Bankruptcy Information,"** provide a list and description of any reorganizations, protection from creditors, or any other form of bankruptcy filings made by the applicant, a parent or affiliate organization that guarantees the obligations of the applicant or any officer of the applicant in the current year or within the two most recent years preceding the application.
- C-9 Exhibit C-9 "Merger Information,"** provide a statement describing any dissolution or merger or acquisition of the applicant within the two most recent years preceding the application.
- C-10 Exhibit C-10 "Corporate Structure,"** provide a description of the applicant's corporate structure, not an internal organizational chart, including a graphical depiction of such structure, and a list of all affiliate and subsidiary companies that supply retail or wholesale electricity or natural gas to customers in North America. If the applicant is a stand-alone entity, then no graphical depiction is required and applicant may respond by stating that they are a stand-alone entity with no affiliate within the two most recent years preceding the application.

SECTION D – APPLICANT TECHNICAL CAPABILITY

PROVIDE THE FOLLOWING AS SEPARATE ATTACHMENTS AND LABEL AS INDICATED.

- D-1 Exhibit D-1 "Operations,"** provide a current written description of the operational nature of the applicant's business. Please include whether the applicant's operations will include the contracting of natural gas purchases for retail sales, the nomination and scheduling of retail natural gas for delivery, and the provision of retail ancillary services, as well as other services used to supply natural gas to the natural gas company city gate for retail customers.
- D-2 Exhibit D-2 "Operations Expertise,"** given the operational nature of the applicant's business, provide evidence of the applicant's current experience and technical expertise in performing such operations.
- D-3 Exhibit D-3 "Key Technical Personnel,"** provide the names, titles, email addresses, telephone numbers, and background of key personnel involved in the operational aspects of the applicant's current business.

Applicant Signature and Title

Richard A. Curren, President

Sworn and subscribed before me this

25th

day of July

Month 2018

Year

Molly K. Lounsbury

Signature of official administering oath

Molly K. Lounsbury, Paalegal

Print Name and Title

My commission expires on April 14, 2021



MOLLY K. LOUNSBURY
Notary Public, State of Ohio

Commission expires 4/14/21



The Public Utilities Commission of Ohio

Competitive Retail Natural Gas Service
Affidavit Form
(Version 1.07)

In the Matter of the Application of)

Volunteer Energy Services, Inc.)

for a Certificate or Renewal Certificate to Provide)
Competitive Retail Natural Gas Service in Ohio.)

Case No.

02

1786

-GA-CRS

County of Fairfield

State of Ohio

Richard A. Curnutte, Sr.

[Affiant], being duly sworn/affirmed, hereby states that:

- (1) The information provided within the certification or certification renewal application and supporting information is complete, true, and accurate to the best knowledge of affiant.
- (2) The applicant will timely file an annual report of its intrastate gross receipts and sales of hundred cubic feet of natural gas pursuant to Sections 4905.10(A), 4911.18(A), and 4929.23(B), Ohio Revised Code.
- (3) The applicant will timely pay any assessment made pursuant to Section 4905.10 or Section 4911.18(A), Ohio Revised Code.
- (4) Applicant will comply with all applicable rules and orders adopted by the Public Utilities Commission of Ohio pursuant to Title 49, Ohio Revised Code.
- (5) Applicant will cooperate with the Public Utilities Commission of Ohio and its staff in the investigation of any consumer complaint regarding any service offered or provided by the applicant.
- (6) Applicant will comply with Section 4929.21, Ohio Revised Code, regarding consent to the jurisdiction of the Ohio courts and the service of process.
- (7) Applicant will inform the Public Utilities Commission of Ohio of any material change to the information supplied in the certification or certification renewal application within 30 days of such material change, including any change in contact person for regulatory or emergency purposes or contact person for Staff use in investigating customer complaints.
- (8) Affiant further sayeth naught.

Affiant Signature & Title

Richard A. Curnutte Sr. President

Sworn and subscribed before me this

25th

day of

July

Month

2018

Year

Molly K. Lounsbury

Signature of Official Administering Oath

Molly K Lounsbury

Print Name and Title



MOLLY K. LOUNSBURY
Notary Public, State of Ohio

Commission expires 4/14/21

My commission expires on

April 14, 2021

(CRNGS Supplier Renewal) - Version 1.08

Page 8 of 8



EXHIBIT A-14
Principal Officers, Directors & Partners

Richard A. Curnutte, Sr.
Director and President
790 Windmill Drive
Pickerington, OH 43147
(614) 856-3128

Marc Runck, Sr.
Director
790 Windmill Drive
Pickerington, OH 43147
(614) 856-3128

John L. Einstein, IV, Esq.
Secretary
790 Windmill Drive
Pickerington, OH 43147
(614) 856-3128

Larry Anderson
Director
790 Windmill Drive
Pickerington, OH 43147
(614) 856-3128

Jeffrey Horsley
Director
790 Windmill Drive
Pickerington, OH 43147
(614) 856-3128



EXHIBIT A-15
Company History

(See Attached)



Introduction

Volunteer Energy Services, Inc., ("VESI") an Ohio corporation was incorporated on March 2, 2001. VESI is a full-service marketer, serving natural gas customers in Ohio, Kentucky and New York. VESI received its certificate as a gas marketer in Ohio on August 19, 2002 in PUCO Case No. 02-1786-GA-CRS. As a certified retail natural gas supplier, VESI currently provides gas service to Choice and mercantile customers throughout the Columbia Gas of Ohio and Dominion East Ohio Gas service territory. With the background and expertise of VESI's president, Richard Curnutte, Sr., VESI plans to offer savings to its gas customers by acting as a broker for electric service. As a broker, VESI may aggregate its customers to maximize potential savings in electric costs. Mr. Curnutte's background working with the Williams Companies under the original Volunteer Energy Services, and as Director of Energy Management for Wendy's provide him with the requisite skills and experience to lead VESI in this expanded customer offering. VESI also provides energy services to its customers through an internet telemetry system that allows VESI to provide metering, submetering and rebilling services to its customers. Through its patented process known as Visual Energy Window, (VEW), VESI can provide its customers with in-depth power quality analysis.

VESI's natural gas supply services program provides a comprehensive package that contains supply and delivery security at competitive rates, complete administrative support and responsibility, and creative supply flexibility. VESI provides natural gas supplies and energy services to commercial and industrial customers, energy cooperatives, buyer's clubs, municipal aggregations, and trade associations throughout the Ohio market area.

VESI's President, Richard A. Curnutte Sr. participated in the re-formation of Volunteer Energy Services, Inc. in March of 2001 and began serving wholesale customers in May of 2001.

Mr. Curnutte previously joined Volunteer Energy Corporation as Vice President, Sales/Marketing in 1995. Mr. Curnutte participated in the formation of the original Volunteer Energy Services, Inc. with the Williams Companies and was named President in 1996. Volunteer Energy Corporation and Volunteer Energy Services, Inc. was sold to FirstEnergy Solutions in November of 1998.

Before joining VESI, Mr. Curnutte was Principal and Vice President of Sales and Marketing for Broad Street Oil and Gas (BSO&G). BSO&G was later sold to Utilicorp/Aquilla Energy. Mr. Curnutte has also held management positions with Unicorp Energy and Yankee Gas Resources/Access Energy.

Prior to entering the natural gas business Mr. Curnutte was Director of Energy Management for Wendy's International. As Corporate Energy Manager, Mr. Curnutte was responsible for energy management for 1200 corporate restaurants throughout the United States. While at Wendy's, Mr. Curnutte transacted the nation's first commercial third party natural gas purchase by buying natural gas for 66 Wendy's and Sister's Chicken & Biscuits restaurants on the Columbia Gas of Ohio system. He also was responsible for the management of their electric usage in 300 stores.



In this capacity Mr. Curnutte worked extensively with utility rates and tariffs to analyze the best opportunities available.

Before Wendy's, Mr. Curnutte was Energy Coordinator for Mid-Ohio Regional Planning Commission (MORPC). Mr. Curnutte was responsible for administration of the Department of Energy/Ohio Department of Development weatherization programs.

Mr. Curnutte has over 20 years of experience in the natural gas and energy service industry dealing in the sales of natural gas to commercial and industrial customers. All of VESI employees and officers were previously with Volunteer Energy Corporation and have a combined 95 years of natural gas experience. Most of this experience was and is dedicated to providing energy services to Ohio based customers.



EXHIBIT A-16
Articles of Incorporation

NO CHANGES
(See Attached)



DATE:	DOCUMENT ID	DESCRIPTION	FILING	EXPED	PENALTY	CERT	COPY
03/06/2001	200106502274	DOMESTIC ARTICLES/FOR PROFIT (ARF)	85.00	10.00	.00	.00	.00

Receipt

This is not a bill. Please do not remit payment.

CSC/DIAMOND ACCESS
50 W. BROAD STREET, SUITE 1800
COLUMBUS, OH 43215

STATE OF OHIO**Ohio Secretary of State, J. Kenneth Blackwell****1212893**

It is hereby certified that the Secretary of State of Ohio has custody of the business records for

VOLUNTEER ENERGY SERVICES, INC.

and, that said business records show the filing and recording of:

Document(s)

DOMESTIC ARTICLES/FOR PROFIT

Document No(s):

200106502274

United States of America
State of Ohio
Office of the Secretary of State

Witness my hand and the seal of
the Secretary of State at Columbus,
Ohio this 2nd day of March, A.D.
2001.

J. Kenneth Blackwell
Ohio Secretary of State



Prescribed by **J. Kenneth Blackwell**

Please obtain fee amount and mailing instructions from the **Forms Inventory List** (using the 3 digit form # located at the bottom of this form). To obtain the **Forms Inventory List** or for assistance, please call Customer Service:

Central Ohio: (614)-466-3910 Toll Free: 1-877-SOS-FILE (1-877-767-3453)

Expedite this form

☒ Yes

ARTICLES OF INCORPORATION

(Under Chapter 1701 of the Ohio Revised Code)

Profit Corporation

The undersigned, desiring to form a corporation, for profit, under Sections 1701.01 et seq. of the Ohio Revised Code, do hereby state the following:

FIRST. The name of said corporation shall be:
VOLUNTEER ENERGY SERVICES, INC.

SECOND. The place in Ohio where its principal office is to be located is

Columbus (city, village or township), Franklin County, Ohio

THIRD. The purpose(s) for which this corporation is formed is:
To engage in any lawful act or activity.

FOURTH. The number of shares which the corporation is authorized to have outstanding is: 200
(Please state whether shares are common or preferred, and their par value, if any. Shares will be recorded as common with no par value unless otherwise indicated.)

IN WITNESS WHEREOF, we have hereunto subscribed our names, on 03/01/2001
(date)

Signature: Patrick Lalor
Name: Patrick Lalor

RECEIVED
MAR 02 2001
J. KENNETH BLACKWELL
SECRETARY OF STATE

Signature: _____, Incorporator
Name: _____

Signature: _____, Incorporator
Name: _____



Prescribed by **J. Kenneth Blackwell**

Please obtain fee amount and mailing instructions from the **Forms Inventory List** (using the 3 digit form # located at the bottom of this form). To obtain the **Forms Inventory List** or for assistance, please call Customer Service:
Central Ohio: (614)-466-3910 Toll Free: 1-877-SOS-FILE (1-877-767-3453)

ORIGINAL APPOINTMENT OF STATUTORY AGENT

The undersigned, being at least a majority of the incorporators of VOLUNTEER ENERGY SERVICES, INC.
hereby appoint CSC-Lawyers Incorporating Service
(Corporation Service Company), to be statutory agent upon whom any process, notice or
demand required or permitted by statute to be served upon the corporation may be served. The complete address of the agent is:
50 West Broad Street
(street name and number P.O. Boxes are not acceptable)
Columbus, Ohio 43215
(city, village or township) (zip code)

Signature: Patrick Lalor
Name: Patrick Lalor, Incorporator

Signature: _____
Name: _____

Signature: _____
Name: _____

ACCEPTANCE OF APPOINTMENT

The undersigned, CSC-Lawyers Incorporating Service
(Corporation Service Company), named herein as the statutory agent for,
VOLUNTEER ENERGY SERVICES, INC., hereby acknowledges and accepts the
appointment of statutory agent for said corporation.

CSC-Lawyers Incorporating Service
(Corporation Service Company)
By: Dolores Burton, Assistant Vice President
Signature: by: Dolores Burton
Statutory Agent

EXHIBIT A-17
Secretary of State

(See Attached)



Entity#: 1212893
Filing Type: CORPORATION FOR PROFIT
Original Filing Date: 2001-02-03
Location: COLUMBUS-
Business Name: VOLUNTEER ENERGY SERVICES, INC.

Status: Active
Exp. Date: -

Agent/Registrant Information

CMP STATUTORY AGENT INC
366 E BROAD ST
COLUMBUS OH 43215
2007-20-03
Active

Incorporator Information

PATRICK LALOR

Filings

Filing Type	Date of Filing	Document ID
DOMESTIC ARTICLES/FOR PROFIT	2001-02-03	200106502274
DOMESTIC AGENT ADDRESS CHANGE	2004-20-08	200423301050
DOMESTIC AGENT ADDRESS CHANGE	2004-06-12	200501301310
DOMESTIC AGENT SUBSEQUENT APPOINTMENT	2007-20-03	200708201960



EXHIBIT B-1

Jurisdiction of Operation

Volunteer Energy Services, Inc. ("VESI") is a Certified Retail Natural Gas Supplier in Ohio. (Certificate No. 02-022G(8)). VESI also offers natural gas service in Kentucky, Pennsylvania and Michigan.

EXHIBIT B-2
Experience & Plans

(See Attached)



Experience

The major objectives of Volunteer Energy Services, Inc.'s ("VESI") natural gas and electric supply services program are to provide a comprehensive package that contains supply and delivery security at competitive rates, complete administrative support and responsibility, and creative supply flexibility. VESI currently provides natural gas supplies and energy services to the commercial and industrial customers, energy cooperatives, buyer's clubs, municipal aggregations, and trade associations throughout the Ohio market area. As a certified broker, VESI seeks to expand the array of services it offers to its customers. VESI has the expertise to structure an energy supply portfolio to meet customer's individual needs.

VESI's President, Rick Curnutte Sr., has over 20 years in the natural gas and energy services industry dealing in the sales of natural gas to commercial and industrial customers. All of VESI employees and officers were previously with Volunteer Energy Corporation and have a combined 95 years of natural gas experience. Most of this experience was and is dedicated to providing energy services to Ohio based customers.

Gas Supply Management Program

VESI's Gas Supply Management Program is custom tailored to the end-users needs, with service levels, pricing, and fee structure negotiated to meet each customer's specific requirements. In order to meet the goal and objectives as stated, VESI recommends establishing the natural gas energy management services for our customers as outlined below:

Gas Supply and Storage

For consideration of supply security and price protection, VESI evaluates interruptible, firm transportation options and storage arrangements on the LDC and upstream pipelines for each customer facility receiving gas supply from VESI.

VESI's natural gas supply strategy is focused on purchases of firm supplies under spot and long term arrangements directly from Ohio production areas, producers, supplemented with economical Gulf Coast production from various production areas and interstate pipelines. VESI currently owns and transports on Dominion Transmission and Columbia Gas Transmission (TCO) using Firm Transportation Services (FTS) agreements and Storage Service Transportation (SST) agreements. VESI also has contracts from Firm Storage Service (FSS) on TCO.

Firm Transportation/Capacity Release

VESI assesses the availability of short term and long-term release of firm capacity rights on the Interstate pipelines upstream of customer's facilities for our customers. In addition to the monitoring of all relevant EBB's, VESI has established trading relationships with other marketers, LDC's and pipelines which have yielded discounted firm transportation via capacity release programs.



Requirement Estimates

VESI will prepare gas requirements forecasts and submit all necessary LDC and pipeline nominations. VESI will develop forecasting procedures that will provide adequate usage estimates and updates necessary to meet actual demand for VESI customers and to comply with pipeline and LDC balancing requirements as required.

Scheduling

VESI does all necessary pipeline and LDC scheduling, dispatching and nominating required to deliver natural gas and to ensure that VESI customers have full advantage of any upstream pipeline discounts. VESI schedules and monitors daily, all flowing gas on upstream pipelines. VESI has full responsibility for arranging transportation to the city gate on a daily basis within the balancing and banking tolerances permitted by the various gas companies. All expenses, fees, fines, or costs associated with imbalances on both the interstate transmission system and the local gas companies are paid by VESI.

Customized Customer Reports

In conjunction with the performance review meetings with customers, various reports will be prepared for customer use. These reports can include: cost savings as compared to published Index and/or LDC's rates, consumption history, price projections for budgeting, etc.

Invoicing

VESI will provide a monthly invoice to each customer in a timely fashion, with a usage breakdown by account. Detailed information will be supplied regarding natural gas supplied and the appropriate cost of those supplies as per the natural gas sales agreement with each customer. VESI will reconcile volumetric consumption and transportation charges with the applicable utility delivery statements. VESI will provide savings analysis on a monthly basis to each GTS customer.

Customer Complaints

VESI provides a toll-free number for customers inquiries. VESI will respond to customer inquiries and complaints in accordance with Commission rules.

Pricing

For electric customers, VESI will seek to aggregate its existing customers and contract with a CRES provider to obtain savings for these customers. In so doing, VESI will review the customer's load and billing history to determine the best options.



For gas customers, VESI will present various pricing options. Practical consideration (such as base load expectations, peak day usage, availability of spot gas, and transportation alternatives) and commercial factors (alternative fuels, winter price spikes, tariff costs, long term gas market trends, etc.) will impact the pricing selection.

Price options VESI can provide now or in the future for customers are:

1. Fixed price on an established term
2. Fixed price with periodic adjustments tied to market tracking mechanism
3. "Cost Plus" methodology
4. NYMEX related pricing
5. Indexed pricing
6. Combinations of all above

The primary objectives of VESI are to provide reliable, cost effective commodity supplies and services, to insure that customers receive direct benefits from all transport discounts including capacity release utilization. VESI plans to be a supply partner and to work with customers to achieve savings, supply security, and competitive portfolio pricing that meets the customer's needs and expectations. VESI desires to be long-term energy partner with each and every customer for the provision of both gas and electricity.



EXHIBIT B-3

Summary of Experience

Summary of Experience

As a Certified Retail Natural Gas Supplier, Volunteer Energy Services, Inc. ("VESI") currently provides natural gas supplies and energy services to the commercial and industrial customers, energy cooperatives, buyer's clubs, municipal aggregations, and trade associations throughout the Ohio Market area.

VESI has the expertise to structure an energy supply portfolio to meet a customer's individual needs. VESI's President, Rick Curnutte Sr. has over 20 years in the natural gas and energy services industry dealing in the sales of natural gas to commercial and industrial customers. All of VESI employees and officers were previously with Volunteer Energy Corporation and have a combined 95 years of natural gas and electric experience. Most of this experience was and will be in the future, dedicated to providing energy services to primarily Ohio based customers.

VESI will use in-house salesmen to solicit new business. Our initial focus will be on the business-to-business opportunities. VESI will focus on businesses with multi-site locations, small to mid-size industrials, trade associations, energy cooperatives, buyer's clubs and governmental aggregation groups.

VESI will concentrate on providing the highest level of customer service. VESI is totally focused on the Ohio market as its primary service territory. Every VESI employee is dedicated to creating a partnership with the customer that far exceeds current industry standards.

The primary objective of VESI is to provide reliable, cost effective electric supplies and services and to insure that customers receive the benefits they need. VESI plans to be a supply partner and to work with customers to achieve savings, supply security, and competitive portfolio pricing that meets the customer's needs and expectations. VESI desires to be a long-term energy partner with each and every customer.

EXHIBIT B-4
Disclosure of Liabilities and Investigations

NONE



EXHIBIT B-5

Disclosure of Consumer Protection Violations

Neither the applicant, a predecessor of the applicant nor any principal officer of the applicant has ever been convicted or held liable for fraud or violation of any consumer protection or antitrust laws within the past five years.

EXHIBIT B-6**Disclosure of Certification Denial, Curtailment, Suspension, or Revocation**

Neither the applicant nor the predecessor of the applicant has had any certification, license or application to provide retail natural gas or retail or wholesale electric service denied, curtailed, suspended or revoked, nor has applicant ever been terminated from any of Ohio's Natural Gas Choice programs or been in default for failure to deliver natural gas.

EXHIBIT C-1
Annual Reports

Because Volunteer Energy Services, Inc. is not publicly traded on the stock exchange, no publicly available, published annual report exists; however, on the following pages are relevant financial disclosures made available to shareholders at least annually.



EXHIBIT C-2
SEC Filings

Volunteer Energy Services, Inc. is not required to file with the Securities Exchange Commission (SEC) because it is not publicly traded.

EXHIBIT C-3
Financial Statements

(Under Seal)

SEE DOCUMENT FILED UNDER SEAL

EXHIBIT C-4
Financial Arrangements

(See Attached)

**AMENDED & RESTATED
REVOLVING CREDIT
AND
SECURITY AGREEMENT**

**PNC BANK, NATIONAL ASSOCIATION
(AS LENDER, ADMINISTRATIVE AGENT, COLLATERAL AGENT AND ISSUER),**

AND

**PNC CAPITAL MARKETS LLC
(AS LEAD ARRANGER)**

WITH

**VOLUNTEER ENERGY SERVICES, INC.
(AS A BORROWER)**

JUNE 30, 2016

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Exhibits

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AMENDED AND RESTATED REVOLVING CREDIT AND SECURITY AGREEMENT

Amended and Restated Revolving Credit and Security Agreement, dated as of June 30, 2016, among VOLUNTEER ENERGY SERVICES, INC., an Ohio corporation (the "Company" and each Person joined hereto as a borrower from time to time, collectively, "Borrowers" and each a "Borrower"), the financial institutions which are now or which hereafter become a party hereto (collectively, "Lenders" and individually a "Lender"), PNC CAPITAL MARKETS LLC as the lead arranger, PNC BANK, NATIONAL ASSOCIATION ("PNC"), as Issuer (as hereinafter defined), administrative agent and collateral agent for Lenders (PNC, in such capacity, "Agent").

RECITALS

WHEREAS, Borrowers, Agent and certain Lenders are party to that certain Revolving Credit and Security Agreement, dated November 21, 2014 (as amended, restated, amended and restated, supplemented or otherwise modified prior to the date hereof, the "Existing Credit Agreement"); and

WHEREAS, Borrowers, Agent and the Lenders wish to amend and restate the Existing Credit Agreement in its entirety on the terms and conditions set forth in this Agreement.

IN CONSIDERATION of the mutual covenants and undertakings herein contained, Borrowers, Lenders and Agent hereby agree as follows:

I. DEFINITIONS.

1.1 Accounting Terms. As used in this Agreement, the Other Documents or any certificate, report or other document made or delivered pursuant to this Agreement, accounting terms not defined in Section 1.2 or elsewhere in this Agreement and accounting terms partly defined in Section 1.2 to the extent not defined, shall have the respective meanings given to them under GAAP; provided, however, that whenever such accounting terms are used for the purposes of determining compliance with financial covenants in this Agreement, such accounting terms shall be defined in accordance with GAAP as applied in preparation of the audited financial statements of Borrowers for the fiscal year ended December 31, 2015. If there occurs after the Closing Date any change in GAAP that affects in any respect the calculation of any covenant contained in this Agreement or the definition of any term defined under GAAP used in such calculations, Agent, Lenders and Borrowers shall negotiate in good faith to amend the provisions of this Agreement that relate to the calculation of such covenants with the intent of having the respective positions of Agent, Lenders and Borrowers after such change in GAAP conform as nearly as possible to their respective positions as of the Closing Date, provided, that, until any such amendments have been agreed upon, the covenants in this Agreement shall be calculated as if no such change in GAAP had occurred and Borrowers shall provide additional financial statements or supplements thereto, attachments to Compliance Certificates and/or calculations regarding financial covenants as Agent may reasonably require in order to provide the appropriate financial information required hereunder with respect to Borrowers both reflecting

any applicable changes in GAAP and as necessary to demonstrate compliance with the financial covenants before giving effect to the applicable changes in GAAP.

1.2 General Terms. For purposes of this Agreement the following terms shall have the following meanings:

"Accountants" shall have the meaning set forth in Section 9.7 hereof.

"ACH Line" shall mean an automated clearinghouse line of credit with PNC.

"Advance Rates" shall mean, collectively, the Receivables Advance Rate and the Inventory Advance Rate.

"Advances" shall mean and include the Revolving Advances and Letters of Credit.

"Affected Lender" shall have the meaning set forth in Section 3.11 hereof.

"Affiliate" of any Person shall mean (a) any Person which, directly or indirectly, is in control of, is controlled by, or is under common control with such Person, or (b) any Person who is a director, manager, member, managing member, general partner or officer (i) of such Person, (ii) of any Subsidiary of such Person or (iii) of any Person described in clause (a) above. For purposes of this definition, control of a Person shall mean the power, direct or indirect, (x) to vote 5% or more of the Equity Interests having ordinary voting power for the election of directors of such Person or other Persons performing similar functions for any such Person, or (y) to direct or cause the direction of the management and policies of such Person whether by ownership of Equity Interests, contract or otherwise.

"Agent" shall have the meaning set forth in the preamble to this Agreement and shall include its successors and assigns.

"Aggregation/Pooling Service Agreement" shall mean an agreement between a certified natural Gas remarketer and a local distribution company providing for the local distribution company's transporting and the remarketer's supplying, Gas to customers.

"Agreement" shall mean this Revolving Credit and Security Agreement, as the same may be amended, restated, supplemented or otherwise modified from time to time.

"Alternate Base Rate" shall mean, for any day, a rate per annum equal to the highest of (i) the Base Rate in effect on such day, (ii) the Federal Funds Open Rate in effect on such day plus 1/2 of 1% and (iii) the Daily LIBOR Rate plus 1%. For purposes of this definition, "Daily LIBOR Rate" shall mean, for any day, the rate per annum determined by Agent by dividing (x) the Published Rate by (y) a number equal to 1.00 minus the percentage prescribed by the Federal Reserve for determining the maximum reserve requirements with respect to any eurocurrency funding by banks on such day. For the purposes of this definition, "Published Rate" shall mean the rate of interest published each Business Day in The Wall Street Journal "Money Rates" listing under the caption "London Interbank Offered Rates" for a one month period (or, if no such rate is published therein for any reason, then the Published Rate shall be the eurodollar rate

for a one month period as published in another comparable financial publication determined by Agent).

“Alternate Source” has the meaning set forth in the definition of “Federal Funds Open Rate.”

“Anti-Terrorism Laws” shall mean any Laws relating to terrorism, trade sanctions programs and embargoes, import/export licensing, money laundering or bribery, and any regulation, order, or directive promulgated, issued or enforced pursuant to such Laws, all as amended, supplemented or replaced from time to time.

“Applicable Law” shall mean all laws, rules and regulations applicable to the Person, conduct, transaction, covenant, Other Document or contract in question, including all applicable common law and equitable principles, all provisions of all applicable state, federal and foreign constitutions, statutes, rules, regulations, treaties, directives and orders of any Governmental Body, and all orders, judgments and decrees of all courts and arbitrators.

“Applicable Margin” shall mean, (a) from the Closing Date through December 31, 2016, an amount equal to four percent (4.00%) for Revolving Advances consisting of Domestic Rate Loans and (b) thereafter, an amount equal to two percent (2.00%) for Revolving Advances consisting of Domestic Rate Loans.

“Bail-In Action” means the exercise of any Write-Down and Conversion Powers by the applicable EEA Resolution Authority in respect of any liability of an EEA Financial Institution.

“Bail-In Legislation” means, with respect to any EEA Member Country implementing Article 55 of Directive 2014/59/EU of the European Parliament and of the Council of the European Union, the implementing law for such EEA Member Country from time to time which is described in the EU Bail-In Legislation Schedule.

“Base Contract for Sale and Purchase of Natural Gas” shall mean the Base Contract for Sale and Purchase of Natural Gas (including the related General terms and Conditions thereof) as promulgated by the North American Energy Standards Board, Inc.

“Base Rate” shall mean the base commercial lending rate of PNC as publicly announced to be in effect from time to time, such rate to be adjusted automatically, without notice, on the effective date of any change in such rate. This rate of interest is determined from time to time by PNC as a means of pricing some loans to its customers and is neither tied to any external rate of interest or index nor does it necessarily reflect the lowest rate of interest actually charged by PNC to any particular class or category of customers of PNC.

“Blocked Accounts” shall have the meaning set forth in Section 4.16(h) hereof, and shall include, without limitation, each Cash Concentration Account.

“Blocked Account Bank” shall have the meaning set forth in Section 4.16(h) hereof.

“Blocked Person” shall have the meaning set forth in Section 5.24(b) hereof.

"Borrower" or "Borrowers" shall have the meaning set forth in the preamble to this Agreement and shall extend to all permitted successors and assigns of such Persons.

"Borrowers on a Consolidated Basis" shall mean the consolidation in accordance with GAAP of the accounts or other items of Borrowers and their respective Subsidiaries.

"Borrowers' Account" shall have the meaning set forth in Section 2.8.

"Borrowing Agent" shall mean the Company.

"Borrowing Base Certificate" shall mean a certificate in substantially the form of Exhibit 1.2 duly executed by the President, Chief Financial Officer or Controller of Borrowing Agent and delivered to Agent, appropriately completed, by which such officer shall certify to Agent the Formula Amount and calculation thereof as of the date of such certificate.

"Business Day" shall mean any day other than Saturday or Sunday or a legal holiday on which commercial banks are authorized or required by law to be closed for business in East Brunswick, New Jersey.

"Capital Expenditures" shall mean expenditures made or liabilities incurred for the acquisition of any fixed assets or improvements (or of any replacements or substitutions thereof or additions thereto) which have a useful life of more than one year, and which, in accordance with GAAP, would be classified as capital expenditures. Capital Expenditures shall include the total principal portion of Capitalized Lease Obligations.

"Capitalized Lease Obligation" shall mean any Indebtedness of any Borrower represented by obligations under a lease that is required to be capitalized for financial reporting purposes in accordance with GAAP.

"Cash Concentration Account" shall mean, with respect to Borrowers and Guarantors, (A) that certain commercial deposit account at PNC in the name of the applicable Borrower or Guarantor but under control of Agent which shall be: (a) pursuant to a deposit account control agreement in form and substance satisfactory to Agent, without liability by Agent or PNC Bank, National Association to pay interest thereon, (b) the funds within which shall be the sole and exclusive property of Agent for the pro rata benefit of Lenders and (c) from which account Agent shall have the irrevocable and exclusive right to withdraw funds until all of the Obligations are paid, performed, satisfied and enforced in full and the commitments of Lenders to make Advances hereunder and all Letters of Credit have terminated or (B) such other deposit account designated by Agent to receive collections of Borrowers and Guarantors for purposes of application to Borrowers' Account.

"Cash Management Liabilities" shall have the meaning provided in the definition of "Cash Management Products and Services."

"Cash Management Products and Services" shall mean agreements or other arrangements under which Agent or any Lender or any Affiliate of Agent or a Lender provides any of the following products or services to any Loan Party: (a) credit cards; (b) credit card processing services; (c) debit cards and stored value cards; (d) commercial cards; (e) ACH transactions

(including the ACH Line); and (f) cash management and treasury management services and products, including without limitation controlled disbursement accounts or services, lockboxes, automated clearinghouse transactions, overdrafts, interstate depository network services. The indebtedness, obligations and liabilities of any Loan Party to the provider of any Cash Management Products and Services (including all obligations and liabilities owing to such provider in respect of any returned items deposited with such provider) (the “Cash Management Liabilities”) shall be “Obligations” hereunder, guaranteed obligations under the Guaranty and secured obligations under any Guarantor Security Agreement, as applicable, and otherwise treated as Obligations for purposes of each of the Other Documents. The Liens securing the Cash Management Products and Services shall be pari passu with the Liens securing all other Obligations under this Agreement and the Other Documents, subject to the express provisions of Section 11.5.

“CEA” shall mean the Commodity Exchange Act (7 U.S.C. §1 et seq.), as amended from time to time, and any successor statute.

“CERCLA” shall mean the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. §§9601 et seq.

“CFTC” shall mean the Commodity Futures Trading Commission.

“Change in Law” shall mean the occurrence, after the Closing Date, of any of the following: (a) the adoption or taking effect of any Applicable Law; (b) any change in any Applicable Law or in the administration, implementation, interpretation or application thereof by any Governmental Body; or (c) the making or issuance of any request, rule, guideline or directive (whether or not having the force of law) by any Governmental Body; provided that notwithstanding anything herein to the contrary, (x) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, regulations, guidelines, interpretations or directives thereunder or issued in connection therewith (whether or not having the force of Applicable Law) and (y) all requests, rules, regulations, guidelines, interpretations 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 (whether or not having the force of law), in each case pursuant to Basel III, shall in each case be deemed to be a Change in Law regardless of the date enacted, adopted, issued, promulgated or implemented.

“Change of Control” shall mean (a) the occurrence of any event (whether in one or more related transactions) which results in a transfer of control of the Company from Richard A. Curnutte, Sr., (b) any merger or consolidation of or with a Borrower in which a Borrower is not the surviving party or (c) the sale (whether in one or more related transactions) of all or substantially all of the property or assets of the Company. For purposes of this definition, “control” shall mean the power, direct or indirect (x) to vote fifty percent (50%) or more of the securities having ordinary voting power for the election of directors of the Company or (y) to direct or cause the direction of the management and policies of the Company by contract or otherwise.

“Change of Management” means that (a) Richard A. Curnutte, Sr., ceases, for any reason, to be employed by the Borrower as its president or chief executive officer or and a qualified successor that is reasonably satisfactory to Agent is not appointed within 90 days of the date that he ceases to be employed by the Borrower or (b) Dave Warner, ceases, for any reason, to be employed by the Borrower as its chief financial officer and a qualified successor that is reasonably satisfactory to Agent is not appointed within 90 days of the date that he ceases to be employed by the Borrower in such position.

“Charges” shall mean all taxes, charges, fees, imposts, levies or other assessments, including all net income, gross income, gross receipts, sales, use, ad valorem, value added, transfer, franchise, profits, inventory, capital stock, license, withholding, payroll, employment, social security, unemployment, excise, severance, stamp, occupation and property taxes, custom duties, fees, assessments, liens, claims and charges of any kind whatsoever, together with any interest and any penalties, additions to tax or additional amounts, imposed by any taxing or other authority, domestic or foreign (including the Pension Benefit Guaranty Corporation or any environmental agency or superfund), upon the Collateral, any Borrower or any of its Affiliates.

“CIP Regulations” shall have the meaning set forth in Section 14.12.

“Closing Date” shall mean June 30, 2016 or such other date as may be agreed to in writing by the parties hereto.

“Code” shall mean the Internal Revenue Code of 1986, as the same may be amended or supplemented from time to time, and any successor statute of similar import, and the rules and regulations thereunder, as from time to time in effect.

“Collateral” shall mean and include all right, title and interest of each Borrower in all of the following property and assets of such Borrower, in each case whether now existing or hereafter arising or created and whether now owned or hereafter acquired and wherever located:

- (a) all Receivables and all supporting obligations relating thereto;
- (b) all equipment and fixtures;
- (c) all general intangibles (including all payment intangibles and all software) and all supporting obligations related thereto;
- (d) all Inventory;
- (e) all Subsidiary Stock, securities, investment property, and financial assets;
- (f) all Real Property;
- (g) all Leasehold Interests;
- (h) all contract rights, rights of payment which have been earned under a contract rights, chattel paper (including electronic chattel paper and tangible chattel paper), commercial tort claims (whether now existing or hereafter arising); documents (including all

warehouse receipts and bills of lading), deposit accounts, goods, instruments (including promissory notes), letters of credit (whether or not the respective letter of credit is evidenced by a writing) and letter-of-credit rights, cash, certificates of deposit, insurance proceeds (including hazard, flood and credit insurance), security agreements, eminent domain proceeds, condemnation proceeds, tort claim proceeds and all supporting obligations;

(i) all ledger sheets, ledger cards, files, correspondence, records, books of account, business papers, computers, computer software (owned by any Borrower or in which it has an interest), computer programs, tapes, disks and documents, including all of such property relating to the property described in clauses (a) through (h) of this definition; and

(j) all proceeds and products of the property described in clauses (a) through (i) of this definition, in whatever form. It is the intention of the parties that if Agent shall fail to have a perfected Lien in any particular property or assets of any Borrower for any reason whatsoever, but the provisions of this Agreement and/or of the Other Documents, together with all financing statements and other public filings relating to Liens filed or recorded by Agent against Borrowers, would be sufficient to create a perfected Lien in any property or assets that such Borrower may receive upon the sale, lease, license, exchange, transfer or disposition of such particular property or assets, then all such "proceeds" of such particular property or assets shall be included in the Collateral as original collateral that is the subject of a direct and original grant of a security interest as provided for herein and in the Other Documents (and not merely as proceeds (as defined in Article 9 of the Uniform Commercial Code) in which a security interest is created or arises solely pursuant to Section 9-315 of the Uniform Commercial Code).

Notwithstanding the forgoing, Collateral shall not include any Excluded Property.

"Collateral Assignment of Contracts" shall mean that Collateral Assignment of Contracts, dated as of November 21, 2014, between Borrower, as assignor and Agent, as assignee.

"Columbia Gas of Kentucky" shall mean Columbia Gas of Kentucky, Inc., a Kentucky corporation.

"Columbia Gas of Kentucky Receivable Purchase Agreement" shall mean that certain Columbia Gas of Kentucky, Inc. Accounts Receivable Purchase Agreement, dated as of February 22, 2010, between the Company and Columbia Gas of Kentucky, as amended by that certain Amendment to Columbia Gas of Kentucky, Inc. Accounts Receivable Purchase Agreement, dated as of April 1, 2011, between Columbia Gas of Kentucky and the Company, as the same may be further amended, restated, replaced, supplemented or otherwise modified from time to time to the extent consented to in writing by Agent

"Columbia Gas of Ohio" shall mean Columbia Gas of Ohio, Inc., an Ohio corporation.

"Columbia Gas of Ohio Receivable Purchase Agreement" shall mean that certain Columbia Gas of Ohio, Inc. Accounts Receivable Purchase Agreement, dated March 24, 2010, by and between the Company and Columbia Gas of Ohio, as amended as of April 21, 2011, as the same may be further amended, restated, replaced, supplemented or otherwise modified from time to time to the extent consented to in writing by Agent

"Columbia Gas of Ohio Standard Choice Offer Supplier Agreement" shall mean that certain Columbia Gas of Ohio, Inc. Standard Choice Offer Supplier Agreement dated February 14, 2012, by and between the Company and Columbia Gas of Ohio, as the same may be amended, restated, replaced, supplemented or otherwise modified from time to time to the extent consented to in writing by Agent.

"Columbia Gas of Pennsylvania" shall mean Columbia Gas of Pennsylvania, Inc., a Pennsylvania corporation.

"Columbia Gas of Pennsylvania Receivable Purchase Agreement" shall mean that certain Columbia Gas of Pennsylvania, Inc. Accounts Receivable Purchase Agreement, dated May 18, 2011, by and between the Company and Columbia Gas of Pennsylvania, as the same may be amended, restated, replaced, supplemented or otherwise modified from time to time to the extent consented to in writing by Agent.

"Commitment Transfer Supplement" shall mean a document in the form of Exhibit 16.3 hereto, properly completed and otherwise in form and substance satisfactory to Agent by which the Purchasing Lender purchases and assumes a portion of the obligation of Lenders to make Advances under this Agreement.

"Commodity Hedge" shall mean a commodity swap, commodity option, or forward commodity contract transaction, commodity price hedging arrangement, or similar agreements entered into by any Borrower, Guarantor and/or their respective Subsidiaries in the ordinary course of business, and not for speculative purposes.

"Commodity Hedge Liabilities" shall have the meaning assigned in the definition of Lender-Provided Commodity Hedge.

"Company" shall have the meaning set forth in the preamble to this Agreement

"Compliance Certificate" shall mean a compliance certificate substantially in the form of Exhibit 1.2(a) hereto to be signed by the Chief Financial Officer or Controller of Borrowing Agent.

"Consents" shall mean all filings and all licenses, permits, consents, approvals, authorizations, qualifications and orders of Governmental Bodies and other third parties, domestic or foreign, necessary to carry on any Loan Party's business or necessary (including to avoid a conflict or breach under any agreement, instrument, other document, license, permit or other authorization) for the execution, delivery or performance of this Agreement or the Other Documents, including any Consents required under all applicable federal, state or other Applicable Law.

"Consigned Inventory" shall mean Inventory of any Borrower that is in the possession of another Person on a consignment, sale or return, or other basis that does not constitute a final sale and acceptance of such Inventory.

"Consumers Energy" shall mean Consumers Energy Company, a Michigan corporation.

“Controlled Group” shall mean, at any time, each Loan Party and all members of a controlled group of corporations and all trades or businesses (whether or not incorporated) under common control and all other entities which, together with any Loan Party, are treated as a single employer under Section 414 of the Code.

“Covered Entity” shall mean (a) each Borrower, each of Borrower’s Subsidiaries, all Guarantors and all pledgors of Collateral and (b) each Person that, directly or indirectly, is in control of a Person described in clause (a) above. For purposes of this definition, control of a Person shall mean the direct or indirect (x) ownership of, or power to vote, 25% or more of the issued and outstanding equity interests having ordinary voting power for the election of directors of such Person or other Persons performing similar functions for such Person, or (y) power to direct or cause the direction of the management and policies of such Person whether by ownership of equity interests, contract or otherwise.

“Customer” shall mean and include the account debtor with respect to any Receivable and/or the prospective purchaser of goods, services or both with respect to any contract or contract right, and/or any party who enters into or proposes to enter into any contract or other arrangement with any Borrower pursuant to which such Borrower is to deliver any personal property or perform any services.

“Customs” shall have the meaning set forth in Section 2.11(b) hereof.

“Debt Payments” shall mean for any period, in each case, all cash actually expended by any Borrower to make: (a) interest payments on any Advances hereunder, plus (b) payments for all fees, commissions and charges set forth herein, plus (c) payments on Capitalized Lease Obligations, plus (d) payments with respect to any other Indebtedness for borrowed money.

“Default” shall mean an event, circumstance or condition which, with the giving of notice or passage of time or both, would constitute an Event of Default.

“Default Rate” shall have the meaning set forth in Section 3.1 hereof.

“Defaulting Lender” shall mean any Lender that: (a) has failed, within two (2) Business Days of the date required to be funded or paid, to (i) fund any portion of its Revolving Commitment Percentage of Advances, (ii) if applicable, fund any portion of its Participation Commitment in Letters of Credit or (iii) pay over to Agent, Issuer or any Lender any other amount required to be paid by it hereunder, unless, in the case of clause (i) above, such Lender notifies Agent in writing that such failure is the result of such Lender’s good faith determination that a condition precedent to funding (specifically identified and including a particular Default or Event of Default, if any) has not been satisfied; (b) has notified Borrowers or Agent in writing, or has made a public statement to the effect, that it does not intend or expect to comply with any of its funding obligations under this Agreement (unless such writing or public statement indicates that such position is based on such Lender’s good faith determination that a condition precedent (specifically identified and including a particular Default or Event of Default, if any) to funding a loan under this Agreement cannot be satisfied) or generally under other agreements in which it commits to extend credit; (c) has failed, within two (2) Business Days after request by Agent, acting in good faith, to provide a certification in writing from an

authorized officer of such Lender that it will comply with its obligations (and is financially able to meet such obligations) to fund prospective Advances and, if applicable, participations in then outstanding Letters of Credit under this Agreement, provided that such Lender shall cease to be a Defaulting Lender pursuant to this clause (c) upon Agent's receipt of such certification in form and substance satisfactory to Agent; (d) has become the subject of an Insolvency Event; (e) has become the subject of a Bail-In Action; or (e) has failed at any time to comply with the provisions of Section 2.6(e) with respect to purchasing participations from the other Lenders, whereby such Lender's share of any payment received, whether by setoff or otherwise, is in excess of its pro rata share of such payments due and payable to all of Lenders.

"Depository Accounts" shall have the meaning set forth in Section 4.16(h) hereof and shall include, without limitation, each Cash Concentration Account.

"Designated Lender" shall have the meaning set forth in Section 16.2(d) hereof.

"Document" shall have the meaning given to the term "document" in the Uniform Commercial Code.

"Dollar" and the sign "\$" shall mean lawful money of the United States of America.

"Domestic Rate Loan" shall mean any Advance that bears interest based upon the Alternate Base Rate.

"Dominion" shall mean The East Ohio Gas Company, an Ohio corporation, d/b/a Dominion East Ohio.

"Dominion Receivables Purchase Agreement" shall mean that certain Service Agreement – Energy Choice Pooling Service, dated as of September 20, 2006, between Dominion and Volunteer Energy Services, Inc.

"Drawing Date" shall have the meaning set forth in Section 2.12(b) hereof.

"DTE Gas" shall mean DTE Gas Company, a Michigan corporation.

"Duke Energy" shall mean Duke Energy Ohio, Inc., an Ohio corporation.

"Duke Energy Receivables Purchase Agreement" shall mean that certain Account Receivables Purchase Agreement, dated as of November 9, 2005, by and between Duke Energy (as successor by merger to Cinergy Corp., the surviving entity of a merger between Cincinnati Gas & Electric Company and PSI Energy) and the Company.

"EBITDA" shall mean for any period with respect to Borrowers on a Consolidated Basis, the sum of (a) net income (or loss) for such period (excluding extraordinary gains), plus (b) all interest expense for such period, plus (c) all charges against income for such period for federal, state and local taxes, plus (d) depreciation expenses for such period, plus (e) amortization expenses for such period.

“EEA Financial Institution” means (a) any credit institution or investment firm established in any EEA Member Country which is subject to the supervision of an EEA Resolution Authority, (b) any entity established in an EEA Member Country which is a parent of an institution described in clause (a) of this definition, or (c) any financial institution established in an EEA Member Country which is a subsidiary of an institution described in clauses (a) or (b) of this definition and is subject to consolidated supervision with its parent.

“EEA Member Country” means any of the member states of the European Union, Iceland, Liechtenstein, and Norway.

“EEA Resolution Authority” means any public administrative authority or any person entrusted with public administrative authority of any EEA Member Country (including any delegatee) having responsibility for the resolution of any EEA Financial Institution.

“Effective Date” means the date indicated in a document or agreement to be the date on which such document or agreement becomes effective, or, if there is no such indication, the date of execution of such document or agreement.

“Eligible Contract Participant” shall mean an “eligible contract participant” as defined in the CEA and regulations thereunder.

“Eligibility Date” shall mean, with respect to each Loan Party and each Swap, the date on which this Agreement or any Other Document becomes effective with respect to such Swap (for the avoidance of doubt, the Eligibility Date shall be the Effective Date of such Swap if this Agreement or any Other Document is then in effect with respect to such Loan Party, and otherwise it shall be the Effective Date of this Agreement and/or such Other Document(s) to which such Loan Party is a party).

“Eligible Inventory” shall mean and include with respect to a Borrower, Inventory of a Borrower, valued at the lower of cost or market value, determined on a weighted average historical cost basis, which: (i) consists of Gas, (ii) has been delivered by any Borrower to a Local Distribution Company pursuant to an Aggregation/Pooling Service Agreement, (iii) is in Gas storage tanks or pipelines of such Local Distribution Company or related pipeline transmitter pending transport to Borrowers’ customers, (iv) which is not, in Agent’s opinion, obsolete, slow moving or unmerchantable and (v) Agent, in its sole and reasonable discretion, shall not deem ineligible Inventory, based on such considerations as Agent may from time to time reasonably deem appropriate including, without limitation, whether the Inventory is subject to a perfected, first priority security interest in favor of Agent and whether the Inventory conforms to all standards imposed by any governmental agency, division or department thereof which has regulatory authority over such goods or the use or sale thereof. In addition, no such Inventory of any Borrower shall be Eligible Inventory if it:

(a) is not owned by a Borrower free and clear of all Liens and rights of any other Person (including the rights of surety that has issued a bond to assure a Borrower’s performance with respect to that Inventory), except the Liens in favor of Agent, on behalf of itself and Lenders, and other Permitted Encumbrances (subject to reserves established by Agent in accordance with the terms of this Agreement);

(b) is Inventory consisting of Gas being delivered to a Borrower pursuant to a Base Contract for Sale and Purchase of Natural Gas which is not yet delivered to a designated city gate of the applicable Local Distribution Company;

(c) except for Inventory consisting of Gas which is being transported to customers by a Local Distribution Company after delivery of such Gas to such Local Distribution Company by a Borrower or which is being stored in Gas storage tanks or pipelines of such Local Distribution Company or related pipeline transmitter prior to such transport pursuant to an Aggregation\Pooling Service Agreement, (i) is not located on premises owned, leased or rented by a Borrower and set forth in Schedule 4.5 (as such Schedule may be updated from time to time), or (ii) is stored at a leased location, unless a reasonably satisfactory landlord waiver has been delivered to Agent, or reserves reasonably satisfactory to Agent have been established by Agent with respect thereto or (iii) is stored with a bailee or warehouseman unless a reasonably satisfactory warehouseman waiver or a reasonably satisfactory, acknowledged bailee letter has been received by Agent or reserves reasonably satisfactory to Agent have been established by Agent with respect thereto, or (iv) is located at a location owned by a Borrower that is subject to a mortgage in favor of a lender other than Agent unless a reasonably satisfactory mortgagee waiver has been delivered to Agent, or reserves reasonably satisfactory to Agent have been established by Agent with respect thereto;

(d) except for Inventory consisting of Gas which is being transported to customers by a Local Distribution Company after delivery of such Gas to such Local Distribution Company by a Borrower or which is being stored in Gas storage tanks or pipelines of such Local Distribution Company or related pipeline transmitter of such Local Distribution Company prior to such transport pursuant to an Aggregation\Pooling Service Agreement, is in transit unless such otherwise Eligible Inventory is (i) in transit from a domestic location owned by a Borrower or a domestic location identified on Schedule 1.2A (as such Schedule may be updated from time to time) to a domestic location owned by a Borrower or a location identified on Schedule 1.2A (as such Schedule may be updated from time to time) or (ii) inventory for which title has passed to a Borrower, which is insured to the full value thereof and with respect to which (A) all negotiable bills of lading shall be properly endorsed and in Agent's possession and (B) all non-negotiable bills of lading shall be issued in Agent's name;

(e) is covered by a negotiable document of title, unless such document has been delivered to Agent with all necessary endorsements, free and clear of all Liens except those in favor of Agent and Lenders;

(f) is placed on consignment (or is being held pursuant to a consignment agreement);

(g) is excess, obsolete, unsalable, shopworn, seconds, damaged or unfit for sale;

(h) consists of goods which have been returned by the Customer, excluding goods returned for reprocessing in the ordinary course of business;

(i) consists of display items or packing or shipping materials, manufacturing supplies or replacement parts;

(j) is not of a type held for sale in the ordinary course of a Borrower's business;

(k) breaches any of the representations or warranties pertaining to Inventory of a Borrower set forth in this Agreement or in any of the Other Documents;

(l) [reserved]

(m) consists of any gross profit mark-up in connection with the sale and distribution thereof to any division of any Borrower or to any Affiliate of any Borrower;

(n) except for Inventory consisting of Gas which has been delivered by a Borrower to a Local Distribution Company pursuant to an Aggregation\Pooling Service Agreement, consists of Hazardous Materials or goods that can be transported or sold only with licenses that are not readily available.

(o) except for Inventory consisting of Gas which has been delivered by a Borrower to a Local Distribution Company pursuant to an Aggregation\Pooling Service Agreement, is not covered by casualty insurance as required by terms of this Agreement reasonably acceptable to Agent;

(p) was produced in violation of the Fair Labor Standards Act and subject to the "hot goods" provision contained in Title 29 U.S.C. Section 215(a)(1); or

(q) is not otherwise satisfactory to Agent as determined in good faith by Agent in the exercise of its discretion in a reasonable manner.

"Eligible Invoice" shall mean an invoice or other documentary evidence satisfactory to Agent of billings for Gas sold by a Borrower and which: (i) in the case of a sale of Gas by a Borrower to a Customer in connection with the CHOICE program and transported to such Customer by a Local Distribution Company pursuant to an Aggregation\Pooling Service Agreement, shall mean documentary evidence consisting of the internal "invoice" generated in connection with a Borrower's receipt of a report from such Local Distribution Company reflecting the delivery of Gas to such Customer, such report by such Local Distribution Company and the invoice sent by such Local Distribution Company on behalf of a Borrower to such Customer and (ii) in the case of a sale of Gas by a Borrower to a Customer in connection with general transmission service of a Borrower, shall mean the invoice sent to such Customer directly by a Borrower.

"Eligible Receivables" shall mean and include with respect to a Borrower, each Receivable consisting solely of Accounts of a Borrower arising in the Ordinary Course of Business and which Agent, in its sole and reasonable credit judgment, shall deem to be an Eligible Receivable, based on such considerations as Agent may from time to time deem appropriate. A Receivable shall not be deemed eligible unless such Receivable is subject to Agent's first priority perfected security interest and no other Lien (other than Permitted

Encumbrances), and is evidenced by an Eligible Invoice satisfactory to Agent. In addition, no Receivable of a Borrower shall be an Eligible Receivable if:

(a) it arises out of a sale made by a Borrower to an Affiliate of a Borrower or to a Person controlled by an Affiliate of a Borrower;

(b) it is due or unpaid more than sixty (60) days after the original due date or more than ninety (90) days after the original invoice date of the Eligible Invoice;

(c) fifty percent (50%) or more of the Receivables from such Customer are not deemed Eligible Receivables hereunder;

(d) any covenant, representation or warranty contained in this Agreement with respect to such Receivable has been breached;

(e) an Insolvency Event shall have occurred with respect to such Customer;

(f) the sale is to a Customer outside the continental United States of America or, to the extent acceptable to Agent, Canada, unless the sale is on letter of credit, guaranty or acceptance terms, in each case acceptable to Agent in its sole discretion;

(g) the sale to the Customer is on a bill-and-hold, guaranteed sale, sale-and-return, sale on approval, consignment or any other repurchase or return basis or is evidenced by chattel paper;

(h) Agent believes, in its reasonable credit judgment, that collection of such Receivable is insecure or that such Receivable may not be paid by reason of the Customer's financial inability to pay;

(i) the Customer is the United States of America, any state or any department, agency or instrumentality of any of them, unless the applicable Borrower assigns its right to payment of such Receivable to Agent pursuant to the Assignment of Claims Act of 1940, as amended (31 U.S.C. Sub-Section 3727 et seq. and 41 U.S.C. Sub-Section 15 et seq.) or has otherwise complied with other applicable laws and has complied with Section 6.4 hereof;

(j) the goods giving rise to such Receivable have not been delivered to and accepted by the Customer or the services giving rise to such Receivable have not been performed by the applicable Borrower and accepted by the Customer or the Receivable otherwise does not represent a final sale;

(k) the Receivables of the Customer exceed a credit limit determined by Agent, in its sole discretion, to the extent such Receivable exceeds such limit;

(l) the Receivable is subject to any offset, deduction, defense, dispute, credits or counterclaim (but such Receivable shall only be ineligible to the extent of such offset, deduction, defense or counterclaim), the Customer is also a creditor or supplier of a Borrower or the Receivable is contingent in any respect or for any reason;

(m) the applicable Borrower has made any agreement with any Customer for any deduction therefrom, except for discounts or allowances made in the Ordinary Course of Business for prompt payment, all of which discounts or allowances are reflected in the calculation of the face value of each respective invoice related thereto;

(n) any return, rejection or repossession of the merchandise has occurred or the rendition of services has been disputed;

(o) such Receivable is not payable to a Borrower;

(p) such Receivable is a Sold or Encumbered Receivable; or

(q) such Receivable is not otherwise satisfactory to Agent as determined in good faith by Agent in the exercise of its discretion in a reasonable manner.

“Environmental Complaint” shall have the meaning set forth in Section 9.3(b) hereof

“Environmental Laws” shall mean all federal, state and local environmental, land use, zoning, health, chemical use, safety and sanitation laws, statutes, ordinances and codes as well as common laws, relating to the protection of the environment, human health and/or governing the use, storage, treatment, generation, transportation, processing, handling, production or disposal of Hazardous Materials and the rules, regulations, policies, guidelines, interpretations, decisions, orders and directives of federal, state, international and local governmental agencies and authorities with respect thereto.

“Equipment” shall mean and include as to each Loan Party all of such Loan Party’s goods (other than Inventory) whether now owned or hereafter acquired and wherever located including all equipment, machinery, apparatus, motor vehicles, fittings, furniture, furnishings, fixtures, parts, accessories and all replacements and substitutions therefor or accessions thereto.

“Equity Interests” shall mean, with respect to any Person, any and all shares, rights to purchase, options, warrants, general, limited or limited liability partnership interests, member interests, participation or other equivalents of or interest in (regardless of how designated) equity of such Person, whether voting or nonvoting, including common stock, preferred stock, convertible securities or any other “equity security” (as such term is defined in Rule 3a11-1 of the General Rules and Regulations promulgated by the SEC under the Exchange Act), including in each case all of the following rights relating to such Equity Interests, whether arising under the Organizational Documents of the Person issuing such Equity Interests (the “issuer”) or under the applicable laws of such issuer’s jurisdiction of organization relating to the formation, existence and governance of corporations, limited liability companies or partnerships or business trusts or other legal entities, as the case may be: (i) all economic rights (including all rights to receive dividends and distributions) relating to such Equity Interests; (ii) all voting rights and rights to consent to any particular action(s) by the applicable issuer; (iii) all management rights with respect to such issuer; (iv) in the case of any Equity Interests consisting of a general partner interest in a partnership, all powers and rights as a general partner with respect to the management, operations and control of the business and affairs of the applicable issuer; (v) in the case of any Equity Interests consisting of the membership/limited liability company interests of a managing member in a limited liability company, all powers and rights as a managing member

with respect to the management, operations and control of the business and affairs of the applicable issuer; (vi) all rights to designate or appoint or vote for or remove any officers, directors, manager(s), general partner(s) or managing member(s) of such issuer and/or any members of any board of members/managers/partners/directors that may at any time have any rights to manage and direct the business and affairs of the applicable issuer under its Organizational Documents as in effect from time to time or under Applicable Law; (vii) all rights to amend the Organizational Documents of such issuer, (viii) in the case of any Equity Interests in a partnership or limited liability company, the status of the holder of such Equity Interests as a "partner", general or limited, or "member" (as applicable) under the applicable Organizational Documents and/or Applicable Law; and (ix) all certificates evidencing such Equity Interests.

"ERISA" shall mean the Employee Retirement Income Security Act of 1974, as the same may be amended or supplemented from time to time and the rules and regulations promulgated thereunder.

"EU Bail-In Legislation Schedule" means the EU Bail-In Legislation Schedule published by the Loan Market Association (or any successor person), as in effect from time to time.

"Event of Default" shall have the meaning set forth in Article X hereof.

"Exchange Act" shall mean the Securities Exchange Act of 1934, as amended.

"Excluded Hedge Liability or Liabilities" shall mean, with respect to each Borrower and Guarantor, each of its Swap Obligations if, and only to the extent that, all or any portion of this Agreement or any Other Document that relates to such Swap Obligation is or becomes illegal under the CEA, or any rule, regulation or order of the CFTC, solely by virtue of such Borrower's and/or Guarantor's failure to qualify as an Eligible Contract Participant on the Eligibility Date for such Swap. Notwithstanding anything to the contrary contained in the foregoing or in any other provision of this Agreement or any Other Document, the foregoing is subject to the following provisos: (a) if a Swap Obligation arises under a master agreement governing more than one Swap, this definition shall apply only to the portion of such Swap Obligation that is attributable to Swaps for which such guaranty or security interest is or becomes illegal under the CEA, or any rule, regulations or order of the CFTC, solely as a result of the failure by such Borrower or Guarantor for any reason to qualify as an Eligible Contract Participant on the Eligibility Date for such Swap; (b) if a guarantee of a Swap Obligation would cause such obligation to be an Excluded Hedge Liability but the grant of a security interest would not cause such obligation to be an Excluded Hedge Liability, such Swap Obligation shall constitute an Excluded Hedge Liability for purposes of the guaranty but not for purposes of the grant of the security interest; and (c) if there is more than one Borrower or Guarantor executing this Agreement or the Other Documents and a Swap Obligation would be an Excluded Hedge Liability with respect to one or more of such Persons, but not all of them, the definition of Excluded Hedge Liability or Liabilities with respect to each such Person shall only be deemed applicable to (i) the particular Swap Obligations that constitute Excluded Hedge Liabilities with respect to such Person, and (ii) the particular Person with respect to which such Swap Obligations constitute Excluded Hedge Liabilities.

"Excluded Property" shall mean any Loan Party's right, title and interest in and to the following property: (i) any Collateral to the extent the granting of a security interest in such asset would be prohibited by Applicable Law or would violate the terms of any contract with respect to such assets or would result in or permit any termination, invalidation, cancellation, loss or abandonment thereof or would require a consent not obtained of any third parties that such Loan Party is unable to obtain after its use of commercially reasonable efforts (in each case, except to the extent that such requirement of law or the term in any such contract, license, agreement, instrument or other document or similar agreement providing for such prohibition, breach, default or termination is ineffective under Applicable Law (including Sections 9-406, 9-407, 9-408 and 9-409 of the Code (or any successor provision or provisions)), (ii) voting stock of any direct Subsidiary of any Loan Party that is a controlled foreign corporation (as defined in Section 957 of the Code (a "CFC") in excess of 65% of the total combined voting power of all classes of stock of such CFC that are entitled to vote (within the meaning of Section 1.956-2(c)(2) of the Treasury Regulations, and (iii) any particular assets if, and for so long as, in the reasonable judgment of Agent (in consultation with Borrowers), the cost or burden of creating or perfecting a pledge or security interest in such assets is excessive in relation of the benefits afforded to Lenders.

"Excluded Taxes" shall mean, with respect to Agent, any Lender, Participant, Issuer or any other recipient of any payment to be made by or on account of any Obligations, (a) taxes imposed on or measured by its overall net income (however denominated), and franchise taxes imposed on it (in lieu of net income taxes), by the jurisdiction (or any political subdivision thereof) under the laws of which such recipient is organized or in which its principal office or applicable lending office is located or, in the case of any Lender, Participant or Issuer, in which its applicable lending office is located, (b) any branch profits taxes imposed by the United States of America or any similar tax imposed by any other jurisdiction in which any Borrower is located, (c) in the case of a Foreign Lender, any withholding tax that is imposed on amounts payable to such Foreign Lender at the time such Foreign Lender becomes a party hereto (or designates a new lending office) or is attributable to such Foreign Lender's failure or inability (other than as a result of a Change in Law) to comply with Section 3.10(e), except to the extent that such Foreign Lender or Participant (or its assignor or seller of a participation, if any) was entitled, at the time of designation of a new lending office (or assignment or sale of a participation), to receive additional amounts from Borrowers with respect to such withholding tax pursuant to Section 3.10(a), or (d) any Taxes imposed on any "withholding payment" payable to such recipient as a result of the failure of such recipient to satisfy the requirements set forth in the FATCA after December 31, 2012.

"Existing Letters of Credit" shall mean the following the Letters of Credit issued by PNC:

(a) LC 18113530, in favor of the Borrower for the benefit of Columbia Gas Transmission Corporation in the amount of \$[REDACTED];

(b) LC 18118643, in favor of the Borrower for the benefit of Columbia Gas Transmission Corporation in the amount of \$[REDACTED] and

(c) LC 12500561, in favor of the Borrower for the benefit of Duke Corporation in the amount of \$[REDACTED].

"Executive Order No. 13224" shall mean the Executive Order No. 13224 on Terrorist Financing, effective September 24, 2001, as the same has been, or shall hereafter be, renewed, extended, amended or replaced.

"Facility Fee" shall have the meaning set forth in Section 3.3(b) hereof.

"FATCA" shall mean 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) and any current or future regulations thereunder or official interpretations thereof.

"Federal Funds Effective Rate" shall mean for any day the rate per annum (based on a year of 360 days and actual days elapsed and rounded upward to the nearest 1/100 of 1%) announced by the Federal Reserve Bank of New York (or any successor) on such day as being the weighted average of the rates on overnight federal funds transactions arranged by federal funds brokers on the previous trading day, as computed and announced by such Federal Reserve Bank (or any successor) in substantially the same manner as such Federal Reserve Bank computes and announces the weighted average it refers to as the "Federal Funds Effective Rate" as of the date of this Agreement; provided, if such Federal Reserve Bank (or its successor) does not announce such rate on any day, the "Federal Funds Effective Rate" for such day shall be the Federal Funds Effective Rate for the last day on which such rate was announced.

"Federal Funds Open Rate" shall mean for any day the rate per annum (based on a year of 360 days and actual days elapsed) which is the daily federal funds open rate as quoted by ICAP North America, Inc. (or any successor) as set forth on the Bloomberg Screen BTMM for that day opposite the caption "OPEN" (or on such other substitute Bloomberg Screen that displays such rate), or as set forth on such other recognized electronic source used for the purpose of displaying such rate as selected by PNC (an "Alternate Source") (or if such rate for such day does not appear on the Bloomberg Screen BTMM (or any substitute screen) or on any Alternate Source, or if there shall at any time, for any reason, no longer exist a Bloomberg Screen BTMM (or any substitute screen) or any Alternate Source, a comparable replacement rate determined by PNC at such time (which determination shall be conclusive absent manifest error); provided however, that if such day is not a Business Day, the Federal Funds Open Rate for such day shall be the "open" rate on the immediately preceding Business Day. If and when the Federal Funds Open Rate changes, the rate of interest with respect to any advance to which the Federal Funds Open Rate applies will change automatically without notice to Borrowers, effective on the date of any such change.

"Fee Letter" shall mean the fee letter dated June 30, 2016, among the Company, PNC and PNC Capital Markets LLC.

"Fixed Charge Coverage Ratio" shall mean, with respect to any fiscal period, the ratio of (a) EBITDA minus Unfunded Capital Expenditures made during such period to (b) the sum of (i) cash taxes paid, plus (ii) all Debt Payments made during such Period, plus (iii) dividends and

distributions (including Income Tax Distributions) of Borrowers and their Subsidiaries on a consolidated basis with respect to such period as permitted by Section 7.7 hereof.

"Flood Laws" shall mean all Applicable Laws relating to policies and procedures that address requirements placed on federally regulated lenders under the National Flood Insurance Reform Act of 1994 and other Applicable Laws related thereto.

"Foreign Currency Hedge" shall mean any foreign exchange transaction, including spot and forward foreign currency purchases and sales, listed or over-the-counter options on foreign currencies, non-deliverable forwards and options, foreign currency swap agreements, currency exchange rate price hedging arrangements, and any other similar transaction providing for the purchase of one currency in exchange for the sale of another currency entered into by any Borrower, Guarantor and/or any of their respective Subsidiaries.

"Foreign Currency Hedge Liabilities" shall have the meaning assigned in the definition of Lender-Provided Foreign Currency Hedge.

"Foreign Lender" shall mean any Lender that is organized under the laws of a jurisdiction other than that in which Borrowers are resident for tax purposes. For purposes of this definition, the United States of America, each State thereof and the District of Columbia shall be deemed to constitute a single jurisdiction.

"Foreign Subsidiary" shall mean any Subsidiary of any Person that is not organized or incorporated in the United States, any State or territory thereof or the District of Columbia.

"Formula Amount" shall have the meaning set forth in Section 2.1(a) hereof.

"Gas" shall mean any mixture of hydrocarbons and noncombustible gases in a gaseous state consisting primarily of methane which a Borrower sells in the ordinary course of its business pursuant to its Ohio Competitive Retail Natural Gas Supplier Certificate.

"GAAP" shall mean generally accepted accounting principles in the United States of America in effect from time to time.

"General Intangibles" shall mean and include as to each Loan Party all of such Loan Party's general intangibles, whether now owned or hereafter acquired, including all payment intangibles, all choses in action, causes of action, corporate or other business records, inventions, designs, patents, patent applications, equipment formulations, manufacturing procedures, quality control procedures, trademarks, trademark applications, service marks, trade secrets, goodwill, copyrights, design rights, software, computer information, source codes, codes, records and updates, registrations, licenses, franchises, customer lists, tax refunds, tax refund claims, computer programs, all claims under guaranties, security interests or other security held by or granted to such Loan Party to secure payment of any of the Receivables by a Customer (other than to the extent covered by Receivables) all rights of indemnification and all other intangible property of every kind and nature (other than Receivables).

"Governmental Acts" shall mean any act or omission, whether rightful or wrongful, of any present or future de jure or de facto Governmental Body.

“Governmental Body” shall mean any nation or government, any state or other political subdivision thereof or any entity, authority, agency, division or department exercising the executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to a government (including any supra-national bodies such as the European Union or the European Central Bank) and any group or body charged with setting financial accounting or regulatory capital rules or standards (including, without limitation, the Financial Accounting Standards Board, the Bank for International Settlements or the Basel Committee on Banking Supervision or any successor or similar authority to any of the foregoing).

“Guarantor” shall mean Richard A. Curnutte, Sr. and any other Person who may hereafter guarantee payment or performance of the whole or any part of the Obligations and “Guarantors” means collectively all such Persons.

“Guarantor Security Agreement” shall mean any security agreement executed by any Guarantor in favor of Agent securing the Obligations or the Guaranty of such Guarantor, in form and substance satisfactory to Agent, in each case as the same may be amended, supplemented, restated, replaced or otherwise modifies from time to time.

“Guaranty” shall mean any guaranty of the Obligations of a Borrower executed by a Guarantor in favor of Agent for its benefit and for the ratable benefit of Lenders, in form and substance satisfactory to Agent, in each case as the same may be amended, supplemented, restated, replaced or otherwise modified from time to time.

“Hazardous Discharge” shall have the meaning set forth in Section 9.3(b) hereof.

“Hazardous Materials” shall mean, without limitation, any flammable explosives, radon, radioactive materials, asbestos, urea formaldehyde foam insulation, polychlorinated biphenyls, petroleum and petroleum products, methane, hazardous materials, Hazardous Wastes, hazardous or Toxic Substances or related materials as defined in or subject to regulation under Environmental Laws.

“Hazardous Wastes” shall mean all waste materials subject to regulation under CERCLA, RCRA or applicable state law, and any other applicable Federal and state laws now in force or hereafter enacted relating to hazardous waste disposal.

“Hedge Liabilities” shall mean Commodity Hedge Liabilities, Foreign Currency Hedge Liabilities and Interest Rate Hedge Liabilities.

“Hedging Policy” shall mean the formal hedging policy written by the Company and endorsed by Plante & Moran PLLC, in form and substance satisfactory to Agent in its sole discretion, which sets forth guidelines for Borrowers’ entry into and performance under Commodity Hedges, Foreign Currency Hedges and Interest Rate Hedges, a copy of which is attached hereto as Exhibit HP.

“Income Tax Distributions” shall have the meaning set forth in Section 7.7 hereof.

“Indebtedness” shall mean, as to any Person at any time, any and all indebtedness, obligations or liabilities (whether matured or unmatured, liquidated or unliquidated, direct or

indirect, absolute or contingent, or joint or several) of such Person for or in respect of: (a) borrowed money; (b) amounts received under or liabilities in respect of any note purchase or acceptance credit facility, and all obligations of such Person evidenced by bonds, debentures, notes or other similar instruments; (c) all Capitalized Lease Obligations; (d) reimbursement obligations (contingent or otherwise) under any letter of credit agreement, banker's acceptance agreement or similar arrangement; (e) obligations under any Interest Rate Hedge, Foreign Currency Hedge, Commodity Hedge or other interest rate management device, foreign currency exchange agreement, currency swap agreement, commodity price protection agreement or other interest or currency exchange rate or commodity price hedging arrangement; (f) any other advances of credit made to or on behalf of such Person or other transaction (including forward sale or purchase agreements, capitalized leases and conditional sales agreements) having the commercial effect of a borrowing of money entered into by such Person to finance its operations or capital requirements including to finance the purchase price of property or services and all obligations of such Person to pay the deferred purchase price of property or services (but not including trade payables and accrued expenses incurred in the Ordinary Course of Business which are not represented by a promissory note or other evidence of indebtedness and which are not more than thirty (30) days past due); (g) all Equity Interests of such Person subject to repurchase or redemption rights or obligations (excluding repurchases or redemptions at the sole option of such Person); (h) all indebtedness, obligations or liabilities secured by a Lien on any asset of such Person, whether or not such indebtedness, obligations or liabilities are otherwise an obligation of such Person; (i) all obligations of such Person for "earnouts", purchase price adjustments, profit sharing arrangements, deferred purchase money amounts and similar payment obligations or continuing obligations of any nature of such Person arising out of purchase and sale contracts; (j) off-balance sheet liabilities and/or pension plan liabilities of such Person; (k) obligations arising under bonus, deferred compensation, incentive compensation or similar arrangements, other than those arising in the Ordinary Course of Business; and (l) any guaranty of any indebtedness, obligations or liabilities of a type described in the foregoing clauses (a) through (k).

"Indemnified Taxes" shall mean Taxes other than Excluded Taxes..

"Ineligible Security" shall mean any security which may not be underwritten or dealt in by member banks of the Federal Reserve System under Section 16 of the Banking Act of 1933 (12 U.S.C. Section 24, Seventh), as amended.

"Insolvency Event" shall mean, with respect to any Person, including without limitation any Lender, such Person or such Person's direct or indirect parent company (a) becomes the subject of a bankruptcy or insolvency proceeding (including any proceeding under Title 11 of the United States Code), or regulatory restrictions, (b) has had a receiver, conservator, trustee, administrator, custodian, assignee for the benefit of creditors or similar Person charged with the reorganization or liquidation of its business appointed for it or has called a meeting of its creditors, (c) admits in writing its inability, or be generally unable, to pay its debts as they become due or cease operations of its present business, (d) with respect to a Lender, such Lender is unable to perform hereunder due to the application of Applicable Law, or (e) in the good faith determination of Agent, has taken any action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any such proceeding or appointment of a type described in clauses (a) or (b), provided that an Insolvency Event shall not result solely by

virtue of any ownership interest, or the acquisition of any ownership interest, in such Person or such Person's direct or indirect parent company by a Governmental Body or instrumentality thereof if, and only if, such ownership interest does not result in or provide such Person with immunity from the jurisdiction of courts within the United States or from the enforcement of judgments or writs of attachment on its assets or permit such Person (or such Governmental Body or instrumentality) to reject, repudiate, disavow or disaffirm any contracts or agreements made by such Person.

"Intellectual Property" shall mean property constituting a patent, copyright, trademark (or any application in respect of the foregoing), service mark, copyright, copyright application, trade name, mask work, trade secrets, design right, assumed name or license or other right to use any of the foregoing under Applicable Law.

"Intellectual Property Claim" shall mean the assertion, by any means, by any Person of a claim that any Borrower's ownership, use, marketing, sale or distribution of any Inventory, equipment, Intellectual Property or other property or asset is violative of any ownership of or right to use any Intellectual Property of such Person.

"Interest Rate Hedge" shall mean an interest rate exchange, collar, cap, swap, floor, adjustable strike cap, adjustable strike corridor, cross-currency swap or similar agreements entered into by any Borrower, Guarantor and/or their respective Subsidiaries in order to provide protection to, or minimize the impact upon, such Borrower, any Guarantor and/or their respective Subsidiaries of increasing floating rates of interest applicable to Indebtedness.

"Interest Rate Hedge Liabilities" shall have the meaning assigned in the definition of Lender-Provided Interest Rate Hedge.

"Inventory" shall mean and include as to each Borrower all of such Borrower's inventory (as defined in Article 9 of the Uniform Commercial Code) and all of such Borrower's goods, merchandise and other personal property, wherever located, to be furnished under any consignment arrangement, contract of service or held for sale or lease, all raw materials, work in process, finished goods and materials and supplies of any kind, nature or description which are or might be used or consumed in such Borrower's business or used in selling or furnishing such goods, merchandise and other personal property, and all Documents.

"Inventory Advance Rate" shall have the meaning set forth in Section 2.1(a) hereof.

"Issuer" shall mean, with respect to any Letter of Credit, any Person who issues a Letter of Credit and/or accepts a draft pursuant to the terms hereof, and each of their successors and assigns (and which may be replaced at the sole discretion of Agent).

"Law(s)" shall mean any law(s) (including common law), constitution, statute, treaty, regulation, rule, ordinance, opinion, issued guidance, release, ruling, order, executive order, injunction, writ, decree, bond, judgment, authorization or approval, lien or award of or any settlement arrangement, by agreement, consent or otherwise, with any Governmental Body, foreign or domestic.

"Leasehold Interests" shall mean all of Borrowers' right, title and interest in and to the premises located at 790 Windmill Dr., Pickerington, Ohio 43147.

"Lender" and "Lenders" shall have the meaning ascribed to such term in the preamble to this Agreement and shall include each Person which becomes a transferee, successor or assign of any Lender. For the purpose of provisions of this Agreement or any Other Document which provides for the granting of a security interest or other Lien to Agent for the benefit of Lenders as security for the Obligations, "Lenders" shall include any Affiliate of a Lender to which such Obligation (specifically including any Hedge Liabilities and any Cash Management Liabilities) is owed.

"Lender-Provided Commodity Hedge" means a Commodity Hedge which is provided by any Lender and for which such Lender confirms to Agent in writing prior to an Event of Default that is continuing: (a) is documented in a standard International Swap Dealers Association, Inc. Master Agreement or another reasonable and customary manner; (b) provides for the method of calculating the reimbursable amount of the provider's credit exposure in a reasonable and customary manner; and (c) is entered into for hedging (rather than speculative) purposes. The liabilities owing to the provider of any Lender- Provided Commodity Hedge (the "Commodity Hedge Liabilities") by any Loan Party, Guarantor, or any of their respective Subsidiaries that is party to such Lender-Provided Commodity Hedge shall, for purposes of this Agreement and all Other Documents be "Obligations" of such Person and of each other Loan Party and Guarantor, be guaranteed obligations under any Guaranty and secured obligations under any Guarantor Security Agreement, as applicable, and otherwise treated as Obligations for purposes of the Other Documents, except to the extent constituting Excluded Hedge Liabilities of such Person. The Liens securing the Commodity Hedge Liabilities shall be pari passu with the Liens securing all other Obligations under this Agreement and the Other Documents, subject to the express provisions of Section 11.5.

"Lender-Provided Foreign Currency Hedge" means a Foreign Currency Hedge which is provided by any Lender and for which such Lender confirms to Agent in writing prior to an Event of Default that is continuing: (a) is documented in a standard International Swap Dealers Association, Inc. Master Agreement or another reasonable and customary manner; (b) provides for the method of calculating the reimbursable amount of the provider's credit exposure in a reasonable and customary manner; and (c) is entered into for hedging (rather than speculative) purposes. The liabilities owing to the provider of any Lender- Provided Foreign Currency Hedge (the "Foreign Currency Hedge Liabilities") by any Loan Party, Guarantor, or any of their respective Subsidiaries that is party to such Lender-Provided Foreign Currency Hedge shall, for purposes of this Agreement and all Other Documents be "Obligations" of such Person and of each other Loan Party and Guarantor, be guaranteed obligations under any Guaranty and secured obligations under any Guarantor Security Agreement, as applicable, and otherwise treated as Obligations for purposes of the Other Documents, except to the extent constituting Excluded Hedge Liabilities of such Person. The Liens securing the Foreign Currency Hedge Liabilities shall be pari passu with the Liens securing all other Obligations under this Agreement and the Other Documents, subject to the express provisions of Section 11.5.

"Lender-Provided Interest Rate Hedge" shall mean an Interest Rate Hedge which is provided by any Lender and with respect to which such Lender confirms to Agent in writing

prior to an Event of Default that is continuing: (a) is documented in a standard International Swap Dealers Association, Inc. Master Agreement or another reasonable and customary manner; (b) provides for the method of calculating the reimbursable amount of the provider's credit exposure in a reasonable and customary manner; and (c) is entered into for hedging (rather than speculative) purposes. The liabilities owing to the provider of any Lender-Provided Interest Rate Hedge (the "Interest Rate Hedge Liabilities") by any Loan Party, Guarantor, or any of their respective Subsidiaries that is party to such Lender-Provided Interest Rate Hedge shall, for purposes of this Agreement and all Other Documents be "Obligations" of such Person and of each other Loan Party and Guarantor, be guaranteed obligations under any Guaranty and secured obligations under any Guarantor Security Agreement, as applicable, and otherwise treated as Obligations for purposes of the Other Documents, except to the extent constituting Excluded Hedge Liabilities of such Person. The Liens securing the Interest Rate Hedge Liabilities shall be pari passu with the Liens securing all other Obligations under this Agreement and the Other Documents, subject to the express provisions of Section 11.5 hereof.

"Letter of Credit Application" shall have the meaning set forth in Section 2.10(a) hereof.

"Letter of Credit Borrowing" shall have the meaning set forth in Section 2.12(d).

"Letter of Credit Fees" shall have the meaning set forth in Section 3.2(a) hereof.

"Letter of Credit Sublimit" shall mean \$ [REDACTED]

"Letters of Credit" shall have the meaning set forth in Section 2.9(a) and shall also include all Existing Letters of Credit.

"License Agreement" shall mean any agreement between any Loan Party and a Licensor pursuant to which such Loan Party is authorized to use any Intellectual Property in connection with the manufacturing, marketing, sale or other distribution of any Inventory of such Loan Party or otherwise in connection with such Loan Party's business operations.

"Licensor" shall mean any Person from whom any Loan Party obtains the right to use (whether on an exclusive or non-exclusive basis) any Intellectual Property in connection with such Loan Party's manufacture, marketing, sale or other distribution of any Inventory or otherwise in connection with such Loan Party's business operations.

"Licensor/Agent Agreement" shall mean an agreement between Agent and a Licensor, in form and content satisfactory to Agent, by which Agent is given the unqualified right, vis-a-vis such Licensor, to enforce Agent's Liens with respect to and to dispose of any Loan Party's Inventory with the benefit of any Intellectual Property applicable thereto, irrespective of such Loan Party's default under any License Agreement with such Licensor.

"Lien" shall mean any mortgage, deed of trust, pledge, hypothecation, assignment, security interest, lien (whether statutory or otherwise), Charge, claim or encumbrance, or preference, priority or other security agreement or preferential arrangement held or asserted in respect of any asset of any kind or nature whatsoever including any conditional sale or other title retention agreement, any lease having substantially the same economic effect as any of the

foregoing, and the filing of or agreement to give, any financing statement under the Uniform Commercial Code or comparable law of any jurisdiction.

“Lien Waiver Agreement” shall mean an agreement which is executed in favor of Agent by a Person who owns or occupies premises at which any Collateral may be located from time to time in form and substance satisfactory to Agent and by which such Person shall waive any Lien that such Person may ever have with respect to any of the Collateral and shall authorize Agent from time to time to enter upon the premises to inspect or remove the Collateral from such premises or to use such premises to store or dispose of such Inventory.

“Loan Parties” shall mean, collectively, each Borrower and each Guarantor (other than Richard A. Curnutte, Sr.) and “Loan Party” shall mean any one of them.

“Local Distribution Company” shall mean any local gas distribution company acceptable to Agent in its sole discretion as advised by Agent in writing, which on the Closing Date includes Duke Energy, Columbia Gas of Ohio, Dominion, Columbia Gas of Pennsylvania, Columbia Gas of Kentucky, Vectren, Consumers Energy, Michigan Gas, DTE Gas, SEMCO Energy, PNG, PECO Energy and UGI.

“Material Adverse Effect” shall mean a material adverse effect on (a) the condition (financial or otherwise), results of operations, assets, business, properties or prospects of any Loan Party, (b) any Loan Party’s ability to duly and punctually pay or perform the Obligations in accordance with the terms thereof, (c) the value of the Collateral, or Agent’s Liens on the Collateral or the priority of any such Lien or (d) the practical realization of the benefits of Agent’s and each Lender’s rights and remedies under this Agreement and the Other Documents.

“Material Contract” shall mean any contract, agreement, instrument, permit, lease or license, written or oral, of any Borrower, which is material to any Borrower’s business or which the failure to comply with could reasonably be expected to result in a Material Adverse Effect.

“Maximum Face Amount” shall mean, with respect to any outstanding Letter of Credit, the face amount of such Letter of Credit including all automatic increases provided for in such Letter of Credit, whether or not any such automatic increase has become effective.

“Maximum Revolving Advance Amount” shall mean (a) for the period commencing on September 1 through and including March 31 of each consecutive year, \$42,000,000 and (b) for the period commencing on April 1 through and including August 31 of each calendar year, \$32,000,000.

“Maximum Undrawn Amount” shall mean with respect to any outstanding Letter of Credit as of any date, the amount of such Letter of Credit that is or may become available to be drawn, including all automatic increases provided for in such Letter of Credit, whether or not any such automatic increase has become effective.

“Michigan Gas” shall mean Michigan Gas Utilities Corporation, a Michigan corporation.

“Modified Commitment Transfer Supplement” shall have the meaning set forth in Section 16.3(d).

"Mortgage" means any mortgage on the Real Property securing the Obligations.

"Multiemployer Plan" shall mean a "multiemployer plan" as defined in Sections 3(37) or 4001(a)(3) of ERISA to which contributions are required or, within the preceding five plan years, were required by any Borrower or any member of the Controlled Group.

"Multiple Employer Plan" shall mean a Plan which has two or more contributing sponsors (including any Borrower or any member of the Controlled Group) at least two of whom are not under common control, as such a plan is described in Section 4064 of ERISA.

"Net Income" shall mean, for any period, the consolidated net income (or loss) of the Loan Parties, determined on a consolidated basis in accordance with GAAP.

"Non-Defaulting Lender" shall mean, at any time, any Lender holding a Revolving Commitment that is not a Defaulting Lender at such time.

"Non-Qualifying Party" shall mean any Borrower or any Guarantor that on the Eligibility Date fails for any reason to qualify as an Eligible Contract Participant.

"Obligations" shall mean and include any and all loans (including without limitation, all Advances), advances, debts, liabilities, obligations (including without limitation all reimbursement obligations and cash collateralization obligations with respect to Letters of Credit issued hereunder), covenants and duties owing by any Loan Party or Guarantor or any Subsidiary of any Loan Party or any Guarantor to Issuer, Lenders or Agent (or to any other direct or indirect subsidiary or affiliate of Issuer any Lender or Agent) of any kind or nature, present or future (including any interest or other amounts accruing thereon, any fees accruing under or in connection therewith, any costs and expenses of any Person payable by any Loan Party and any indemnification obligations payable by any Loan Party arising or payable after maturity, or after the filing of any petition in bankruptcy, or the commencement of any insolvency, reorganization or like proceeding relating to any Loan Party, whether or not a claim for post-filing or post-petition interest, fees or other amounts is allowable or allowed in such proceeding), whether or not evidenced by any note, guaranty or other instrument, whether arising under any agreement, instrument or document (including this Agreement, the Other Documents, Lender-Provided Commodity Hedges, Lender-Provided Interest Rate Hedges, Lender-Provided Foreign Currency Hedges and any Cash Management Products and Services) whether or not for the payment of money, whether arising by reason of an extension of credit, opening or issuance of a letter of credit, loan, equipment lease, establishment of any commercial card or similar facility or guarantee, under any commodity, interest or currency swap, future, option or other similar agreement, or in any other manner, whether arising out of overdrafts or deposit or other accounts or electronic funds transfers (whether through automated clearing houses or otherwise) or out of Agent's or any Lender's non-receipt of or inability to collect funds or otherwise not being made whole in connection with depository transfer check or other similar arrangements, whether direct or indirect (including those acquired by assignment or participation), absolute or contingent, joint or several, due or to become due, now existing or hereafter arising, contractual or tortious, liquidated or unliquidated, regardless of how such indebtedness or liabilities arise or by what agreement or instrument they may be evidenced or whether evidenced by any agreement or instrument, including, but not limited to, (i) any and all of any Loan Party's or any Guarantor's

Indebtedness and/or liabilities (and any and all indebtedness, obligations and/or liabilities of any Subsidiary of any Loan Party or any Guarantor) under this Agreement, the Other Documents or under any other agreement between Issuer, Agent or Lenders and any Loan Party and any amendments, extensions, renewals or increases and all costs and expenses of Issuer, Agent and any Lender incurred in the documentation, negotiation, modification, enforcement, collection or otherwise in connection with any of the foregoing, including but not limited to reasonable attorneys' fees and expenses and all obligations of any Loan Party to Issuer, Agent or Lenders to perform acts or refrain from taking any action, (ii) all Hedge Liabilities and (iii) all Cash Management Liabilities. Notwithstanding anything to the contrary contained in the foregoing, the Obligations shall not include any Excluded Hedge Liabilities.

"Ordinary Course of Business" shall mean, with respect to any Borrower the ordinary course of such Borrower's business as conducted on the Closing Date.

"Organizational Documents" shall mean, with respect to any Person, any charter, articles or certificate of incorporation, certificate of organization, registration or formation, certificate of partnership or limited partnership, bylaws, operating agreement, limited liability company agreement, or partnership agreement of such Person and any and all other applicable documents relating to such Person's formation, organization or entity governance matters (including any shareholders' or equity holders' agreement or voting trust agreement) and specifically includes, without limitation, any certificates of designation for preferred stock or other forms of preferred equity.

"Other Documents" shall mean the Revolving Credit Note, the Fee Letter, the Reaffirmation of Other Documents, the Questionnaire, the Letters of Credit, the blocked Account Agreements, the Lien Waiver Agreements, any Guaranty, any Guarantor Security Agreement, any Pledge Agreement, the Collateral Assignment of Contracts, the Post-Closing Letter, any Lender-Provided Commodity Hedge, Lender-Provided Foreign Currency Hedge, Lender-Provided Interest Rate Hedge and any and all other agreements, instruments and documents, including guaranties, pledges, powers of attorney, consents, commodity, interest or currency swap agreements or other similar agreements and all other writings heretofore, now or hereafter executed by any Borrower or any Guarantor or any other Loan Party and/or delivered to Agent or any Lender in respect of the transactions contemplated by this Agreement, in each case together with all extensions, renewals, amendments, supplements, modifications, substitutions and replacements thereto and thereof.

"Other Taxes" shall mean all present or future stamp or documentary taxes or any other excise or property taxes, charges or similar levies arising from any payment made hereunder or under any Other Document or from the execution, delivery or enforcement of, or otherwise with respect to, this Agreement or any Other Document.

"Out-of-Formula Loans" shall have the meaning set forth in Section 16.2(b).

"Parent" of any Person shall mean a corporation or other entity owning, directly or indirectly, 50% or more of the Equity Interests issued by such Person having ordinary voting power to elect a majority of the directors of such Person, or other Persons performing similar functions for any such Person.

“Participant” shall mean each Person who shall be granted the right by any Lender to participate in any of the Advances and who shall have entered into a participation agreement in form and substance satisfactory to such Lender.

“Participation Advance” shall have the meaning set forth in Section 2.12(d).

“Participation Commitment” shall mean the obligation hereunder of each Lender holding a Revolving Commitment to buy a participation equal to its Revolving Commitment Percentage (subject to any reallocation pursuant to Section 2.23(b)(iii) hereof) in the Letters of Credit issued hereunder as provided for in Section 2.14(a) hereof.

“Payment Office” shall mean initially Two Tower Center Boulevard, East Brunswick, New Jersey 08816; thereafter, such other office of Agent, if any, which it may designate by notice to Borrowing Agent and to each Lender to be the Payment Office.

“PBGC” shall mean the Pension Benefit Guaranty Corporation established pursuant to Subtitle A of Title IV of ERISA or any successor.

“PECO” shall mean PECO Energy Company, a Pennsylvania corporation.

“Pension Benefit Plan” shall mean at any time any “employee pension benefit plan” as defined in Section 3(2) of ERISA (including a Multiple Employer Plan, but not a Multiemployer Plan) which is covered by Title IV of ERISA or is subject to the minimum funding standards under Sections 412, 430 or 436 of the Code and either (i) is maintained or to which contributions are required by any Borrower or any member of the Controlled Group; or (ii) has at any time within the preceding five years been maintained or to which contributions are required by any Borrower or any entity which was at such time a member of the Controlled Group.

“Permitted Discretion” shall mean a determination made in good faith and in the exercise (from the perspective of a secured asset-based lender) of commercially reasonable business judgment.

“Permitted Encumbrances” shall mean:

(a) Liens in favor of Agent for the benefit of Agent and Lenders, including without limitation, Liens securing Hedge Liabilities and Cash Management Products and Services;

(b) Liens for taxes, assessments or other governmental charges not delinquent or being Properly Contested;

(c) Liens disclosed in the financial statements referred to in Section 5.5 and set forth on Schedule 1.2;

(d) deposits or pledges to secure obligations under worker’s compensation, social security or similar laws, or under unemployment insurance;

(e) deposits or pledges to secure bids, tenders, contracts (other than contracts for the payment of money), leases, statutory obligations, surety and appeal bonds and other obligations of like nature arising in the Ordinary Course of Business;

(f) Liens arising by virtue of the rendition, entry or issuance against any Borrower or any Subsidiary, or any property of any Borrower or any Subsidiary, of any judgment, writ, order, or decree for so long as each such Lien (x) is in existence for less than 30 consecutive days after it first arises or is being Properly Contested and (y) is at all times junior in priority to any Liens in favor of Agent;

(g) mechanics', workers', materialmen's or other like Liens arising in the Ordinary Course of Business with respect to obligations which are not due or which are being Properly Contested;

(h) Liens placed upon fixed assets hereafter acquired to secure a portion of the purchase price thereof, provided that (x) any such lien shall not encumber any other property of any Loan Party and (y) the aggregate amount of Indebtedness secured by such Liens incurred as a result of such purchases during any fiscal year shall not exceed the amount provided for in Section 7.6;

(i) other Liens incidental to the conduct of any Borrower's business or the ownership of its property and assets which were not incurred in connection with the borrowing of money or the obtaining of advances or credit, and which do not in the aggregate materially detract from Agent's or Lenders' rights in and to the Collateral or the value of any Borrower's property or assets or which do not materially impair the use thereof in the operation of any Borrower's business;

(j) easements, rights-of-way, zoning restrictions, minor defects or irregularities in title and other charges or encumbrances, in each case, which do not interfere in any material respect with the Ordinary Course of Business of Borrowers and their Subsidiaries;

(k) Liens disclosed on Schedule 1.2; provided that such Liens shall secure only those obligations which they secure on the Closing Date and shall not subsequently apply to any other property or assets of any Loan Party; and

(l) Liens in favor of Bank of America, N.A. (or its Affiliates), to secure obligations under the Commodity Hedges described in clause (f) of the definition of Permitted Indebtedness, so long as such Liens are subject to an intercreditor agreement in form and substance satisfactory to Agent in its sole discretion.

"Permitted Indebtedness" shall mean:

- (a) the Obligations;
- (b) Indebtedness incurred for Capital Expenditures permitted in Section 7.6 hereof;
- (c) any guarantees of Indebtedness permitted under Section 7.3 hereof;

(d) any Indebtedness listed on Schedule 7.8 hereof (including any extensions, renewals or refinancing thereof), provided that the principal amount of such Indebtedness shall not be increased without the prior written consent of the Required Lenders;

(e) Interest Rate Hedges that are entered into by Borrowers to hedge their risks with respect to outstanding Indebtedness of Borrowers and not for speculative or investment purposes; and

(f) Indebtedness arising from Commodity Hedges with Bank of America, N.A. (or its Affiliates) as counterparties relating to commodities hedging transactions entered into for non-speculative purposes with notional amounts not to exceed an aggregate amount equal to \$2,000,000, so long as such Indebtedness is subject to an intercreditor agreement in form and substance satisfactory to Agent in its sole discretion.

"Permitted Investments" shall mean investments in: (a) obligations issued or guaranteed by the United States of America or any agency thereof; (b) commercial paper with maturities of not more than 180 days and a published rating of not less than A-1 or P-1 (or the equivalent rating); (c) certificates of time deposit and bankers' acceptances having maturities of not more than 180 days and repurchase agreements backed by United States government securities of a commercial bank if (i) such bank has a combined capital and surplus of at least \$500,000,000, or (ii) its debt obligations, or those of a holding company of which it is a Subsidiary, are rated not less than A (or the equivalent rating) by a nationally recognized investment rating agency; and (d) U.S. money market funds that invest solely in obligations issued or guaranteed by the United States of America or an agency thereof.

"Person" shall mean any individual, sole proprietorship, partnership, corporation, business trust, joint stock company, trust, unincorporated organization, association, limited liability company, limited liability partnership, institution, public benefit corporation, joint venture, entity or Governmental Body (whether federal, state, county, city, municipal or otherwise, including any instrumentality, division, agency, body or department thereof).

"Plan" shall mean any employee benefit plan within the meaning of Section 3(3) of ERISA (including a Pension Benefit Plan and a Multiemployer Plan, as defined herein), maintained by any Borrower or any member of the Controlled Group or to which any Borrower or any member of the Controlled Group is required to contribute.

"Pledge Agreement" shall mean any pledge agreement executed subsequent to the Closing Date by any other Person to secure the Obligations.

"PNC" shall have the meaning set forth in the preamble to this Agreement and shall extend to all of its successors and assigns.

"PNG" shall mean Peoples Natural Gas Company LLC, a Pennsylvania limited liability company.

"PNG Receivables Purchase Agreement" shall mean that certain Priority One Pooling Agreement, dated as of April 12, 2013, by and between PNG and the Company.

"Post-Closing Letter" shall mean that Post-Closing Letter, dated as of November 21, 2014, between Borrower and Agent.

"Pro Forma Balance Sheet" shall have the meaning set forth in Section 5.5(a) hereof.

"Pro Forma Financial Statements" shall have the meaning set forth in Section 5.5(b) hereof.

"Projections" shall have the meaning set forth in Section 5.5(b) hereof.

"Properly Contested" shall mean, in the case of any Indebtedness, Lien or Taxes, as applicable, of any Person that are not paid as and when due or payable by reason of such Person's bona fide dispute concerning its liability to pay the same or concerning the amount thereof: (a) such Indebtedness, Lien or Taxes, as applicable, are being properly contested in good faith by appropriate proceedings promptly instituted and diligently conducted; (b) such Person has established appropriate reserves as shall be required in conformity with GAAP; (c) the non-payment of such Indebtedness or Taxes will not have a Material Adverse Effect or will not result in the forfeiture of any assets of such Person; (d) no Lien is imposed upon any of such Person's assets with respect to such Indebtedness or taxes unless such Lien (x) does not attach to any Receivables or Inventory, (y) is at all times junior and subordinate in priority to the Liens in favor of Agent (except only with respect to property Taxes that have priority as a matter of applicable state law) and, (z) enforcement of such Lien is stayed during the period prior to the final resolution or disposition of such dispute; (e) if such Indebtedness or Lien, as applicable, results from, or is determined by the entry, rendition or issuance against a Person or any of its assets of a judgment, writ, order or decree, enforcement of such judgment, writ, order or decree is stayed pending a timely appeal or other judicial review; and (f) if such contest is abandoned, settled or determined adversely (in whole or in part) to such Person, such Person forthwith pays such Indebtedness and all penalties, interest and other amounts due in connection therewith.

"Protective Advances" shall have the meaning set forth in Section 16.2(f) hereof.

"Purchasing CLO" shall have the meaning set forth in Section 16.3(d) hereof.

"Purchasing Lender" shall have the meaning set forth in Section 16.3(c) hereof.

"Qualified ECP Loan Party" shall mean each Borrower or Guarantor that on the Eligibility Date is (a) a corporation, partnership, proprietorship, organization, trust, or other entity other than a "commodity pool" as defined in Section 1a(10) of the CEA and CFTC regulations thereunder that has total assets exceeding \$10,000,000 or (b) an Eligible Contract Participant that can cause another person to qualify as an Eligible Contract Participant on the Eligibility Date under Section 1a(18)(A)(v)(II) of the CEA by entering into or otherwise providing a "letter of credit or keepwell, support, or other agreement" for purposes of Section 1a(18)(A)(v)(II) of the CEA.

"Questionnaire" shall mean the Documentation Information Questionnaire and the responses thereto provided by Borrowers and delivered to Agent.

"RCRA" shall mean the Resource Conservation and Recovery Act, 42 U.S.C. §§ 6901 et seq., as same may be amended from time to time.

"Reaffirmation of Other Documents" means the reaffirmation agreement, dated as of the Closing Date, executed by the Loan Parties in favor of Agent, reaffirming the guarantees, security interests, pledges and mortgages granted by the Loan Parties under the Other Documents.

"Real Property" shall mean all of each Borrower's right, title and interest in and to the owned and leased premises identified on Schedule 4.5 hereto or which is hereafter owned or leased by any Borrower.

"Receivables" shall mean and include, as to each Borrower, all of such Borrower's accounts (as defined in Article 9 of the Uniform Commercial Code) and all of such Borrower's contract rights, instruments (including those evidencing indebtedness owed to such Borrower by its Affiliates), documents, chattel paper (including electronic chattel paper), general intangibles relating to accounts, contract rights, instruments, documents and chattel paper, and drafts and acceptances, credit card receivables and all other forms of obligations owing to such Borrower arising out of or in connection with the sale or lease of Inventory or Receivables or the rendition of services, all supporting obligations, guarantees and other security therefor, whether secured or unsecured, now existing or hereafter created, and whether or not specifically sold or assigned to Agent hereunder.

"Receivables Advance Rate" shall have the meaning set forth in Section 2.1(a) hereof.

"Receivables Purchase Agreement" means an Aggregation\Pooling Service Agreement between Borrower as a certified natural gas remarketer, and a Local Distribution Company, acceptable to Agent in its sole discretion as advised by Agent in writing, providing for (a) the Local Distribution Company's transporting, and Borrower's supplying, Gas to Customers, (b) the Local Distribution Company's purchase of some or all of the Receivables owed by Customers to Borrower for the supplying of Gas in connection with such Aggregation\Pooling Services Agreement, and (c) the purchase of any such Receivable occurring by no later than the calendar month following the month in which any Gas was transported to the Customer giving rise to such Receivable. The Receivables due from the Customers to Borrower that a Local Distribution Company has purchased as described in the preceding sentence are called "Specified Sold Customer Receivables," and the Receivables due from Local Distribution Companies to a Borrower that arise from such Borrower's sale of Specified Sold Customer Receivables are called "Specified LDC Receivables". On the Closing Date, the following are Receivables Purchase Agreements: the Columbia Gas of Ohio Receivable Purchase Agreement, the Columbia Gas of Ohio Standard Choice Offer Supplier Agreement, the Columbia Gas of Pennsylvania Receivable Purchase Agreement, the Columbia Gas of Kentucky Receivables Purchase Agreement, the Dominion Receivables Purchase Agreement, the Duke Energy Receivables Purchase Agreement, the PNG Receivables Purchase Agreement, the UGI Receivables Purchase Agreement and the Vectren Choice Supplier Pooling Agreement.

"Register" shall have the meaning set forth in Section 16.3(e).

“Reimbursement Obligation” shall have the meaning set forth in Section 2.12(b) hereof.

“Release” shall have the meaning set forth in Section 5.7(c)(i) hereof.

“Replacement Lender” shall have the meaning set forth in Section 3.11 hereof.

“Reportable Compliance Event” shall mean that any Covered Entity becomes a Sanctioned Person, or is charged by indictment, criminal complaint or similar charging instrument, arraigned, or custodially detained in connection with any Anti-Terrorism Law or any predicate crime to any Anti-Terrorism Law, or has knowledge of facts or circumstances to the effect that it is reasonably likely that any aspect of its operations is in actual or probable violation of any Anti-Terrorism Law.

“Reportable ERISA Event” shall mean a reportable event described in Section 4043(c) of ERISA or the regulations promulgated thereunder.

“Required Lenders” shall mean Lenders or any Defaulting Lender) holding greater than fifty percent (50.0%) of the Advances and, if no Advances are outstanding, shall mean Lenders holding greater than fifty percent (50.0%) of the Revolving Commitment Percentages; provided, however, if there are three (3) Lenders or two (2) Lenders, Required Lenders shall mean at least two Lenders (excluding any Defaulting Lender).

“Required Lenders for Eligibility” shall mean Lenders or any Defaulting Lender) holding at least sixty-six and two-thirds percent (66 2/3%) of the Advances and, if no Advances are outstanding, shall mean Lenders holding sixty-six and two thirds-percent (66 2/3%) of the Revolving Commitment Percentages.

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

“Revolving Advances” shall mean Advances other than Letters of Credit.

“Revolving Commitment” shall mean, as to any Lender, the obligation of such Lender (if applicable), to make Revolving Advances and participate Letters of Credit, in an aggregate principal and/or face amount not to exceed the Revolving Commitment Amount (if any) of such Lender.

“Revolving Commitment Amount” shall mean, as to any Lender the Revolving Commitment amount (if any) set forth below such Lender’s name on the signature page hereto (or, in the case of any Lender that became party to this Agreement after the Closing Date pursuant to Section 16.3(c) or (d) hereof, the Revolving Commitment amount (if any) of such Lender as set forth in the applicable Commitment Transfer Supplement).

“Revolving Commitment Percentage” shall mean, as to any Lender, the Revolving Commitment Percentage (if any) set forth below such Lender’s name on the signature page

hereof (or, in the case of any Lender that became party to this Agreement after the Closing Date pursuant to Section 16.3(c) or (d) hereof, the Revolving Commitment Percentage (if any) of such Lender as set forth in the applicable Commitment Transfer Supplement).

"Revolving Credit Note" shall mean, collectively, the promissory notes referred to in Section 2.1(a) hereof.

"Revolving Interest Rate" shall mean, with respect to Revolving Advances that are Domestic Rate Loans, an interest rate per annum equal to the sum of the Applicable Margin plus the Alternate Base Rate.

"Sanctioned Country" shall mean a country subject to a sanctions program maintained under any Anti-Terrorism Law.

"Sanctioned Person" shall mean any individual person, group, regime, entity or thing listed or otherwise recognized as a specially designated, prohibited, sanctioned or debarred person, group, regime, entity or thing, or subject to any limitations or prohibitions (including but not limited to the blocking of property or rejection of transactions), under any Anti-Terrorism Law.

"Seasonal Availability Block" shall mean, during each period set forth in the chart below, the corresponding amounts set forth to such dates:

Period	Seasonal Availability Block
February 1 through February 28 of each calendar year	██████████
March 1 through March 31 of each calendar year	██████████
April 1 through April 30 of each calendar year	██████████

"Seasonal Overadvance Amount" shall mean, during each period set forth in the chart below, the corresponding amounts set forth next to such dates:

Period	Seasonal Overadvance Amount
July 1 through July 31, 2016	██████████
August 1 through August 31, 2016	██████████
September 1 through September 30, 2016	██████████
October 1 through October 31, 2016	██████████
November 1 through November 30, 2016	██████████
December 1 through December 31, 2016	██████████

"SEC" shall mean the Securities and Exchange Commission or any successor thereto.

"Section 20 Subsidiary" shall mean the Subsidiary of the bank holding company controlling PNC, which Subsidiary has been granted authority by the Federal Reserve Board to underwrite and deal in certain Ineligible Securities.

"Secured Parties" shall mean, collectively, Agent, Issuer and Lenders, together with any Affiliates of Agent or any Lender to whom any Hedge Liabilities or Cash Management Liabilities are owed and with each other holder of any of the Obligations, and the respective successors and assigns of each of them.

"Securities Act" shall mean the Securities Act of 1933, as amended.

"SEMCO Energy" shall mean SEMCO Energy Gas Company, a division of SEMCO Energy, Inc., a Michigan corporation.

"Settlement" shall have the meaning set forth in Section 2.20(f) hereof.

"Settlement Date" shall have the meaning set forth in Section 2.20(f) hereof.

"Sold or Encumbered Receivable" means a Receivable of a Borrower (i) which is sold or transferred to a local gas distribution company (including all Specified Sold Customer Receivables) or (ii) in which a Borrower has granted a security interest to a local gas distribution company, in either case whether pursuant to a Receivables Purchase Agreement, any similar agreement or otherwise.

"Specified LDC Receivable Payment Deadline" means, unless otherwise specified in the following sentence, the earlier of (a) the date required in the applicable Receivables Purchase Agreement and (b) 30 days after the date a Borrower sold the Specified Sold Customer Receivable to the Local Distribution Company under a Receivables Purchase Agreement that gave rise to the Specified LDC Receivable. With respect to the following Specified LDC Receivables, Specified LDC Receivable Payment Deadline means: (i) the third (3rd) Business Day following the twentieth (20th) day of the calendar month in which Columbia Gas of Ohio purchased the applicable Specified Sold Customer Receivable under the Columbia Gas of Ohio Receivable Purchase Agreement, (ii) the twenty-fifth (25th) day of the calendar month in which Columbia Gas of Ohio purchased the applicable Specified Sold Customer Receivable under the Columbia Gas of Ohio Standard Choice Offer Supplier Agreement, (iii) the thirtieth (30th) day of the calendar month in which Columbia Gas of Pennsylvania purchased the applicable Specified Sold Customer Receivable under a Receivables Purchase Agreement, (iv) the third (3rd) Business Day following the twenty-fifth (25th) day of the calendar month in which Vectren purchased the applicable Specified Sold Customer Receivable under the Vectren Choice Supplier Pooling Agreement, (v) the fortieth (40th) day following the date bills are issued by UGI for charges billed by the Company to UGI's customers (or the next following Business Day if the fortieth (40th) day falls on a bank holiday or a UGI holiday) under the UGI Receivables Purchase Agreement, (vi) the last Business Day of the calendar month following the calendar month in which Columbia Gas of Kentucky purchased the applicable Specified Sold Customer Receivable under the Columbia Gas of Kentucky Receivable Purchase Agreement.

"Specified LDC Receivables" shall have the meaning provided in the definition of "Receivables Purchase Agreement."

"Specified Sold Customer Receivables" shall have the meaning provided in the definition of "Receivables Purchase Agreement."

“Subchapter S” shall mean subchapter S of the Code.

“Subsidiary” of any Person shall mean a corporation or other entity of whose Equity Interests having ordinary voting power (other than Equity Interests having such power only by reason of the happening of a contingency) to elect a majority of the directors of such corporation, or other Persons performing similar functions for such entity, are owned, directly or indirectly, by such Person.

“Subsidiary Stock” shall mean (a) with respect to the Equity Interests issued to a Borrower by any Subsidiary (other than a Foreign Subsidiary), 100% of such issued and outstanding Equity Interests, and (b) with respect to any Equity Interests issued to a Borrower by any Foreign Subsidiary (i) 100% of such issued and outstanding Equity Interests not entitled to vote (within the meaning of Treas. Reg. Section 1.956(c)(2)) and (ii) 66% (or such greater percentage that, due to a change in an Applicable Law after the date hereof, (x) could not reasonably be expected to cause the undistributed earnings of such Foreign Subsidiary as determined for United States federal income tax purposes to be treated as a deemed dividend to such Borrower and (y) could not reasonably be expected to cause any material adverse tax consequences) of such issued and outstanding Equity Interests entitled to vote (within the meaning of Treas. Reg. Section 1.956 2(c)(2)).

“Swap” shall mean any “swap” as defined in Section 1a(47) of the CEA and regulations thereunder other than (a) a swap entered into on, or subject to the rules of, a board of trade designated as a contract market under Section 5 of the CEA, or (b) a commodity option entered into pursuant to CFTC Regulation 32.3(a).

“Swap Obligation” means any obligation to pay or perform under any agreement, contract or transaction that constitutes a Swap which is also a Lender-Provided Commodity Hedge, Lender-Provided Interest Rate Hedge, or a Lender-Provided Foreign Currency Hedge.

“Tax Refund” shall mean any refund of (a) any Taxes paid by a Loan Party or (b) any Taxes allocable to the income of a Loan Party paid by a shareholder or equityholder of a Loan Party in respect of which such shareholder or equityholder received an Income Tax Distribution.

“Taxes” shall mean all present or future taxes, levies, imposts, duties, deductions, withholdings, assessments, fees or other charges imposed by any Governmental Body, including any interest, additions to tax or penalties applicable thereto.

“Term” shall have the meaning set forth in Section 13.1 hereof.

“Termination Event” shall mean: (a) a Reportable ERISA Event with respect to any Plan; (b) the withdrawal of any Borrower or any member of the Controlled Group from a Plan during a plan year in which such entity was a “substantial employer” as defined in Section 4001(a)(2) of ERISA or a cessation of operations that is treated as such a withdrawal under Section 4062(e) of ERISA; (c) the providing of notice of intent to terminate a Plan in a distress termination described in Section 4041(c) of ERISA; (d) the commencement of proceedings by the PBGC to terminate a Plan; (e) any event or condition (a) which might constitute grounds under Section 4042 of ERISA for the termination of, or the appointment of a trustee to administer, any Plan, or (b) that may result in termination of a Multiemployer Plan pursuant to Section 4041A of ERISA;

(f) the partial or complete withdrawal within the meaning of Section 4203 or 4205 of ERISA, of any Borrower or any member of the Controlled Group from a Multiemployer Plan; (g) notice that a Multiemployer Plan is subject to Section 4245 of ERISA; or (h) the imposition of any liability under Title IV of ERISA, other than for PBGC premiums due but not diligent, upon any Borrower or any member of the Controlled Group.

"Toxic Substance" shall mean and include any material present on the Real Property (including the Leasehold Interests) which has been shown to have significant adverse effect on human health or which is subject to regulation under the Toxic Substances Control Act (TSCA), 15 U.S.C. §§ 2601 et seq., applicable state law, or any other applicable Federal or state laws now in force or hereafter enacted relating to toxic substances. "Toxic Substance" includes but is not limited to asbestos, polychlorinated biphenyls (PCBs) and lead-based paints.

"Trading with the Enemy Act" shall mean the foreign assets control regulations of the United States Treasury Department (31 CFR, Subtitle B, Chapter V, as amended) and any enabling legislation or executive order relating thereto.

"Transferee" shall have the meaning set forth in Section 16.3(d) hereof.

"UGI" shall mean UGI Utilities, Inc., a Pennsylvania corporation.

"UGI Receivables Purchase Agreement" shall mean that certain Agreement for Consolidated Billing Service with Purchase of Receivables, dated as of July 2014, between UGI and the Company.

"Unbilled Eligible Receivable" shall mean a Receivable which would otherwise constitute an Eligible Receivable but for the fact that no Eligible Invoice exists with respect to such Receivable with respect to the sale giving rise to the Receivable; provided, however that (i) such Receivable shall be recorded at cost without mark-up until an Eligible Invoice exists, and (ii) such Unbilled Eligible Receivable is evidenced by a daily delivery report furnished by the applicable pipeline transmitter. In no event shall any Sold or Encumbered Receivable constitute an Unbilled Eligible Receivable.

"Undrawn Availability" at a particular date shall mean an amount equal to (a) the lesser of (i) the Formula Amount or (ii) the Maximum Revolving Advance Amount minus the Maximum Undrawn Amount of outstanding Letters of Credit, minus (b) the sum of (i) the then outstanding amount of Advances plus (ii) all amounts due and owing to Borrowers' trade creditors which are outstanding which are outstanding sixty (60) days or more past their due date, plus (iii) fees and expenses for which any Borrower is liable but which have not been paid or charged to such Borrowers' Account.

"Unfunded Capital Expenditures" shall mean, as to any Borrower, without duplication, a Capital Expenditure funded (a) from such Borrower's internally generated cash flow or (b) with the proceeds of a Revolving Advance.

"Uniform Commercial Code" shall have the meaning set forth in Section 1.3 hereof.

"USA PATRIOT Act" shall mean the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, Public Law 107-56, as the same has been, or shall hereafter be, renewed, extended, amended or replaced.

"Vectren" shall mean Vectren Energy Delivery of Ohio, Inc.

"Vectren Choice Supplier Pooling Agreement" shall mean that certain Vectren Energy Delivery of Ohio, Inc. Choice Supplier Pooling Agreement dated October 9, 2009, by and between the Company and Vectren, as the same may be amended, restated, replaced, supplemented or otherwise modified from time to time to the extent consented to in writing by Agent.

"Week" shall mean the time period commencing with the opening of business on a Wednesday and ending on the end of business the following Tuesday.

"Write-Down and Conversion Powers" means, with respect to any EEA Resolution Authority, the write-down and conversion powers of such EEA Resolution Authority from time to time under the Bail-In Legislation for the applicable EEA Member Country, which write-down and conversion powers are described in the EU Bail-In Legislation Schedule.

1.3 Uniform Commercial Code Terms. All terms used herein and defined in the Uniform Commercial Code as adopted in the State of Ohio from time to time (the "Uniform Commercial Code") shall have the meaning given therein unless otherwise defined herein. Without limiting the foregoing, the terms "accounts", "chattel paper" (and "electronic chattel paper" and "tangible chattel paper"), "commercial tort claims", "deposit accounts", "documents", "equipment", "financial asset", "fixtures", "general intangibles", "goods", "instruments", "inventory", "investment property", "letter-of-credit rights", "payment intangibles", "proceeds", "promissory note", "securities", "software" and "supporting obligations" as and when used in the description of Collateral shall have the meanings given to such terms in Articles 8 or 9 of the Uniform Commercial Code. To the extent the definition of any category or type of collateral is expanded by any amendment, modification or revision to the Uniform Commercial Code, such expanded definition will apply automatically as of the date of such amendment, modification or revision.

1.4 Certain Matters of Construction. The terms "herein," "hereof" and "hereunder" and other words of similar import refer to this Agreement as a whole and not to any particular section, paragraph or subdivision. All references herein to Articles, Sections, Exhibits and Schedules shall be construed to refer to Articles and Sections of, and Exhibits and Schedules to, this Agreement. Any pronoun used shall be deemed to cover all genders. Wherever appropriate in the context, terms used herein in the singular also include the plural and vice versa. All references to statutes and related regulations shall include any amendments of same and any successor statutes and regulations. Unless otherwise provided, all references to any instruments or agreements to which Agent is a party, including references to any of the Other Documents, shall include any and all modifications, supplements or amendments thereto, any and all restatements or replacements thereof and any and all extensions or renewals thereof. Except as otherwise expressly provided for herein, all references herein to the time of day shall mean the time in New York, New York. Unless otherwise provided, all financial calculations shall be

performed with Inventory valued on a first-in, first-out basis. Whenever the words “including” or “include” shall be used, such words shall be understood to mean “including, without limitation” or “include, without limitation.” A Default or an Event of Default shall be deemed to exist at all times during the period commencing on the date that such Default or Event of Default occurs to the date on which such Default or Event of Default is waived in writing pursuant to this Agreement or, in the case of a Default, is cured within any period of cure expressly provided for in this Agreement; and an Event of Default shall “continue” or be “continuing” until such Event of Default has been waived in writing by the Required Lenders. Any Lien referred to in this Agreement or any of the Other Documents as having been created in favor of Agent, any agreement entered into by Agent pursuant to this Agreement or any of the Other Documents, any payment made by or to or funds received by Agent pursuant to or as contemplated by this Agreement or any of the Other Documents, or any act taken or omitted to be taken by Agent, shall, unless otherwise expressly provided, be created, entered into, made or received, or taken or omitted, for the benefit or account of Agent and Lenders. Wherever the phrase “to the best of Loan Parties’ knowledge” or words of similar import relating to the knowledge or the awareness of any Loan Party are used in this Agreement or Other Documents, such phrase shall mean and refer to (i) the actual knowledge of a senior officer of any Loan Party or (ii) the knowledge that a senior officer would have obtained if he had engaged in good faith and diligent performance of his duties, including the making of such reasonably specific inquiries as may be necessary of the employees or agents of such Loan Party and a good faith attempt to ascertain the existence or accuracy of the matter to which such phrase relates. All covenants hereunder shall be given independent effect so that if a particular action or condition is not permitted by any of such covenants, the fact that it would be permitted by an exception to, or otherwise within the limitations of, another covenant shall not avoid the occurrence of a default if such action is taken or condition exists. In addition, all representations and warranties hereunder shall be given independent effect so that if a particular representation or warranty proves to be incorrect or is breached, the fact that another representation or warranty concerning the same or similar subject matter is correct or is not breached will not affect the incorrectness of a breach of a representation or warranty hereunder.

1.5 Effect of Amendment and Restatement; No Novation. Upon the effectiveness of this Agreement, the Existing Credit Agreement shall be amended and restated in its entirety by this Agreement. The obligations of each Borrower to repay the Obligations, as defined in the Existing Credit Agreement (the “Existing Obligations”), shall continue in full force and effect, and the effectiveness of this Agreement shall not constitute a novation or repayment of the Existing Obligations. As of the date hereof and subject to the amendment and restatement of the Existing Credit Agreement by this Agreement, each Borrower hereby reaffirms its obligations, liabilities and the validity of all covenants by it contained in the Existing Credit Agreement and any and all Other Documents, as amended, supplemented or otherwise modified by this Agreement and by the Other Documents delivered prior to the Closing Date. Any and all references in any Other Documents to the Existing Credit Agreement shall be deemed to be amended to refer to this Agreement. Without limiting the foregoing, upon the effectiveness hereof: Agent shall make such reallocations, sales, assignments or other relevant actions in respect of each Lender’s credit and loan exposure under the Existing Credit Agreement as are necessary in order that the Existing Obligations due and payable to a Lender hereunder reflect such Lender’s ratable share of the aggregate of all such Existing Obligations on the Closing Date. As of the Closing Date, the Lenders hereunder shall severally purchase from each other

and from any Lenders (as defined in the Existing Credit Agreement) that are not Lenders hereunder (the "Non-Continuing Lenders"), the Revolving Commitments of such Non-Continuing Lenders under the Existing Credit Agreement so that, after giving effect to such purchase and to any Advances made on the Closing Date, the Revolving Commitments and the principal indebtedness owing under this Agreement and the participations in the Letters of Credit are held by the Lenders hereunder, and the Non-Continuing Lenders shall cease to be a party to the Existing Credit Agreement and shall not be parties to this Agreement. Such purchases shall have been deemed to have been automatically made hereunder without the necessity of the execution and delivery of any assignment documentation, on an as-is, where-is basis by the Non-Continuing Lenders and any Non-Continuing Lender shall be deemed to be a third party beneficiary of this Section 1.5. Except as expressly modified herein, all of the terms and provisions of the Existing Credit Agreement shall continue to apply for the periods prior to the Closing Date, in each case, including any determinations of payment dates, interest rates, compliance with covenants and other obligations, accuracy of representations and warranties, Events of Default or any amount payable to Agent or the Lenders. As to all periods occurring on or after the Closing Date, all of the covenants in the Existing Credit Agreement shall be of no further force and effect (with respect to such periods), it being understood that all obligations of each Borrower under the Existing Credit Agreement shall be governed by this Agreement from and after the Closing Date.

II. ADVANCES, PAYMENTS.

2.1 Revolving Advances.

(a) Amount of Revolving Advances. Subject to the terms and conditions set forth in this Agreement including, without limitation, Section 2.1(b), each Lender, severally and not jointly, will make Revolving Advances to Borrowers in aggregate amounts outstanding at any time equal to such Lender's Revolving Commitment Percentage of the lesser of (x) the Maximum Revolving Advance Amount, less the aggregate Maximum Undrawn Amount of outstanding Letters of Credit or (y) an amount equal to the sum of:

(i) up to ninety-percent (90%), subject to the provisions of Section 2.1(b) hereof, of Eligible Receivables, plus

(ii) up to the lesser of:

(A) the sum of (1) up to eighty-five percent (85%) of Unbilled Eligible Receivables plus (2) up to seventy-five percent (75%) of the value of Eligible Inventory, in each case, subject to the provisions of Section 2.1(b), hereof, or

(B) an aggregate amount equal to sixty-five percent (65%) of the Maximum Revolving Advance Amount existing at such time, plus

(iii) the Seasonal Overadvance Amount, if then applicable; minus

(iv) the Seasonable Availability Block, if then applicable; minus

(v) the aggregate Maximum Undrawn Amount of all outstanding Letters of Credit, minus

(vi) such reserves as Agent may establish from time to time in its Permitted Discretion.

The rates derived from Section 2.1(a)(y) (i) and (ii)(A)(x) shall be referred to individually and collectively as the "Receivables Advance Rate." The rate derived from Section 2.1(a)(y)(ii)(A)(2) shall be referred to as the "Inventory Advance Rate." The amount derived from the sum of (x) Sections 2.1(a)(y)(i), (ii) and (iii) minus (y) Sections 2.1(a)(y)(iv), (v) and (vi) at any time and from time to time shall be referred to as the "Formula Amount." In calculating the Formula Amount, the reduction for the aggregate Maximum Undrawn Amount for all outstanding Letters of Credit shall be decreased by the amount of any monies in the cash collateral account pursuant to Section 3.2(b) of this Agreement. The Revolving Advances, if requested by a Lender, shall be evidenced by one or more secured promissory notes (collectively, the "Revolving Credit Note") substantially in the form attached hereto as Exhibit 2.1(a). Without in any way limiting Agent's general ability to set or otherwise impose reserves as set forth in Section 2.1(a)(y)(vi), Agent specifically may impose a reserve under this Section 2.1 in the event that the credit rating of any Local Distribution Company with respect to which there are any Eligible Receivables (as reported by Moody's Investor Service, Inc. and/or Standard and Poor's Rating Services) is at any time lowered, such reserve to be in such amount and for such duration as Agent deems proper and necessary, in its sole discretion. Notwithstanding anything to the contrary contained in the foregoing or otherwise in this Agreement, the outstanding aggregate principal amount of the Revolving Advances at any one time outstanding shall not exceed an amount equal to the lesser of (i) the Maximum Revolving Advance Amount less the Maximum Undrawn Amount of all outstanding Letters of Credit or (ii) the Formula Amount.

(b) Discretionary Rights. The Advance Rates may be increased or decreased by Agent at any time and from time to time in its Permitted Discretion. Each Borrower consents to any such increases or decreases and acknowledges that decreasing the Advance Rates or increasing or imposing reserves may limit or restrict Advances requested by Borrowing Agent. The rights of Agent under this subsection are subject to the provisions of Section 16.2(b).

2.2 Procedure for Revolving Advances Borrowing. Borrowing Agent on behalf of any Borrower may notify Agent prior to 10:00 a.m. on a Business Day of a Borrower's request to incur, on that day, a Revolving Advance hereunder. Should any amount required to be paid as interest hereunder, or as fees or other charges under this Agreement or any other agreement with Agent or Lenders, or with respect to any other Obligation under this Agreement, become due, same shall be deemed a request for a Revolving Advance maintained as a Domestic Rate Loan as of the date such payment is due, in the amount required to pay in full such interest, fee, charge or Obligation under this Agreement or any other agreement with Agent or Lenders, and such request shall be irrevocable.

2.3 Disbursement of Advance Proceeds. All Advances shall be disbursed from whichever office or other place Agent may designate from time to time and, together with any and all other Obligations of Borrowers to Agent or Lenders, shall be charged to Borrowers'

Account on Agent's books. The proceeds of each Revolving Advance requested by Borrowing Agent on behalf of any Borrower or deemed to have been requested by any Borrower under Sections 2.2(a), 2.12 or 2.20 hereof shall, (i) with respect to requested Revolving Advances, to the extent Lenders make such Revolving Advances in accordance with Section 2.2(a), 2.12 or 2.20 hereof, be made available to the applicable Borrower on the day so requested by way of credit to such Borrower's operating account at PNC, or such other bank as Borrowing Agent may designate following notification to Agent, in immediately available federal funds or other immediately available funds or, (ii) with respect to Revolving Advances deemed to have been requested by any Borrower be disbursed to Agent to be applied to the outstanding Obligations giving rise to such deemed request. During the Term, Borrowers may use the Revolving Advances by borrowing, prepaying and reborrowing, all in accordance with the terms and conditions hereof.

2.4 Reserved.

2.5 Maximum Advances. The aggregate balance of Revolving Advances at any time shall not exceed the lesser of (a) the Maximum Revolving Advance Amount or (b) the Formula Amount, less, in each case, the aggregate Maximum Undrawn Amount of all issued and outstanding Letters of Credit.

2.6 Manner and Repayment of Advances.

(a) The Revolving Advances shall be due and payable in full on the last day of the Term subject to earlier prepayment as herein provided. Notwithstanding the foregoing, all Advances shall be subject to earlier repayment upon (x) acceleration upon the occurrence of an Event of Default under this Agreement or (y) termination of this Agreement. Each payment (including each prepayment) by any Borrower on account of the principal of and interest on the Advances shall be applied, pro rata according to the applicable Revolving Commitment Percentages of Lenders, to the outstanding Revolving Advances (subject to any contrary provisions of Section 2.23).

(b) Each Borrower recognizes that the amounts evidenced by checks, notes, drafts or any other items of payment relating to and/or proceeds of Collateral may not be collectible by Agent on the date received by Agent. Agent shall conditionally credit Borrowers' Account for each item of payment on the next Business Day after the Business Day on which such item of payment is received by Agent (and the Business Day on which each such item of payment is so credited shall be referred to, with respect to such item, as the "Application Date"). Agent is not, however, required to credit Borrowers' Account for the amount of any item of payment which is unsatisfactory to Agent and Agent may charge Borrowers' Account for the amount of any item of payment which is returned, for any reason whatsoever, to Agent unpaid. Subject to the foregoing, Borrowers agree that for purposes of computing the interest charges under this Agreement, each item of payment received by Agent shall be deemed applied by Agent on account of the Obligations on its respective Application Date. Borrowers further agree that there is a monthly float charge payable to Agent for Agent's sole benefit, in an amount equal to (y) the face amount of all items of payment received during the prior month (including items of payment received by Agent as a wire transfer or electronic depository check) multiplied by (z) the Revolving Interest Rate with respect to Domestic Rate Loans for one (1) Business Day.

(c) All payments of principal, interest and other amounts payable hereunder, or under any of the Other Documents shall be made to Agent at the Payment Office not later than 1:00 p.m. (New York time) on the due date therefor in lawful money of the United States of America in federal funds or other funds immediately available to Agent. Agent shall have the right to effectuate payment on any and all Obligations due and owing hereunder by charging Borrowers' Account or by making Advances as provided in Section 2.2 hereof.

(d) Borrowers shall pay principal, interest, and all other amounts payable hereunder, or under any related agreement, without any deduction whatsoever, including, but not limited to, any deduction for any setoff or counterclaim.

2.7 Repayment of Excess Advances. If at any time the aggregate balance of outstanding Revolving Advances and/or Advances taken as a whole exceeds the maximum amount of such type of Advances and/or Advances taken as a whole (as applicable) permitted hereunder, such excess Advances shall be immediately due and payable without the necessity of any demand, at the Payment Office, whether or not a Default or an Event of Default has occurred.

2.8 Statement of Account. Agent shall maintain, in accordance with its customary procedures, a loan account ("Borrowers' Account") in the name of Borrowers in which shall be recorded the date and amount of each Advance made by Agent and the date and amount of each payment in respect thereof; provided, however, the failure by Agent to record the date and amount of any Advance shall not adversely affect Agent or any Lender. Each month, Agent shall send to Borrowing Agent a statement showing the accounting for the Advances made, payments made or credited in respect thereof, and other transactions between Agent, Lenders and Borrowers during such month. The monthly statements shall be deemed correct and binding upon Borrowers in the absence of manifest error and shall constitute an account stated between Lenders and Borrowers unless Agent receives a written statement of Borrowers' specific exceptions thereto within thirty (30) days after such statement is received by Borrowing Agent. The records of Agent with respect to Borrowers' Account shall be conclusive evidence absent manifest error of the amounts of Advances and other charges thereto and of payments applicable thereto.

2.9 Letters of Credit.

(a) Subject to the terms and conditions hereof, Issuer shall issue or cause the issuance of standby and/or trade letters of credit denominated in Dollars ("Letters of Credit") for the account of any Borrower except to the extent that the issuance thereof would then cause the sum of (i) the outstanding Revolving Advances plus (ii) the Maximum Undrawn Amount of all outstanding Letters of Credit, plus (iii) the Maximum Undrawn Amount of the Letter of Credit to be issued to exceed the lesser of (x) the Maximum Revolving Advance Amount or (y) the Formula Amount (calculated without giving effect to the deductions provided for in Section 2.1(a)(y)(v)). The Maximum Undrawn Amount of all outstanding Letters of Credit shall not exceed in the aggregate at any time the Letter of Credit Sublimit. All disbursements or payments related to Letters of Credit shall be deemed to be Domestic Rate Loans consisting of Revolving Advances and shall bear interest at the Revolving Interest Rate for Domestic Rate Loans. Letters of Credit that have not been drawn upon shall not bear interest (but fees shall accrue in respect of

outstanding Letters of Credit as provided in Section 3.2 hereof). Each Existing Letter of Credit shall be deemed to be a Letter of Credit issued under this Agreement and entitled to the benefits of a Letter of Credit issued hereunder.

(b) Notwithstanding any provision of this Agreement, Issuer shall not be under any obligation to issue any Letter of Credit if (i) any order, judgment or decree of any Governmental Body or arbitrator shall by its terms purport to enjoin or restrain Issuer from issuing any Letter of Credit, or any Law applicable to Issuer or any request or directive (whether or not having the force of law) from any Governmental Body with jurisdiction over Issuer shall prohibit, or request that Issuer refrain from, the issuance of letters of credit generally or the Letter of Credit in particular or shall impose upon Issuer with respect to the Letter of Credit any restriction, reserve or capital requirement (for which Issuer is not otherwise compensated hereunder) not in effect on the date of this Agreement, or shall impose upon Issuer any unreimbursed loss, cost or expense which was not applicable on the date of this Agreement, and which Issuer in good faith deems material to it, or (ii) the issuance of the Letter of Credit would violate one or more policies of Issuer applicable to letters of credit generally.

2.10 Issuance of Letters of Credit.

(a) Borrowing Agent, on behalf of any Borrower, may request Issuer to issue or cause the issuance of a Letter of Credit by delivering to Issuer, with a copy to Agent at the Payment Office, prior to 10:00 a.m., at least five (5) Business Days prior to the proposed date of issuance, such Issuer's form of Letter of Credit Application (the "Letter of Credit Application") completed to the satisfaction of Agent and Issuer; and, such other certificates, documents and other papers and information as Agent or Issuer may reasonably request. Borrowing Agent, on behalf of any Borrower, also has the right to give instructions and make agreements with respect to any application, any applicable letter of credit and security agreement, any applicable letter of credit reimbursement agreement and/or any other applicable agreement, any letter of credit and the disposition of documents, disposition of any unutilized funds, and to agree with Agent upon any amendment, extension or renewal of any Letter of Credit. Issuer shall not issue any requested Letter of Credit if such Issuer has received notice from a Borrower, Agent or any Lender that one or more of the applicable conditions set forth in Section 8.2 of this Agreement have not been satisfied or the commitments of Lenders to make Revolving Advances hereunder have been terminated for any reason. Agent or the applicable Lender shall provide a copy of such notice to Borrowing Agent.

(b) Each Letter of Credit shall, among other things, (i) provide for the payment of sight drafts, other written demands for payment, or acceptances of issuance drafts when presented for honor thereunder in accordance with the terms thereof and when accompanied by the documents described therein and (ii) have an expiry date not later than twelve (12) months after such Letter of Credit's date of issuance and in no event later than the last day of the Term. Each standby Letter of Credit shall be subject either to the Uniform Customs and Practice for Documentary Credits as most recently published by the International Chamber of Commerce at the time a Letter of Credit is issued (the "UCP") or the International Standby Practices (International Chamber of Commerce Publication Number 590) (the "ISP98 Rules")), and any subsequent revision thereof at the time a standby Letter of Credit is issued, as determined by Issuer, and each trade Letter of Credit shall be subject to the UCP.

(c) Agent shall use its reasonable efforts to notify Lenders of the request by Borrowing Agent for a Letter of Credit hereunder.

2.11 Requirements For Issuance of Letters of Credit.

(a) Borrowing Agent shall authorize and direct any Issuer to name the applicable Borrower as the "Applicant" or "Account Party" of each Letter of Credit. If Agent is not Issuer of any Letter of Credit, Borrowing Agent shall authorize and direct Issuer to deliver to Agent all instruments, documents, and other writings and property received by Issuer pursuant to the Letter of Credit and to accept and rely upon Agent's instructions and agreements with respect to all matters arising in connection with the Letter of Credit, the application therefor.

(b) In connection with all trade Letters of Credit issued or caused to be issued by Issuer under this Agreement, each Borrower hereby appoints Issuer, or its designee, as its attorney, with full power and authority if an Event of Default shall have occurred, (i) to sign and/or endorse such Borrower's name upon any warehouse or other receipts, letter of credit applications and acceptances, (ii) to sign such Borrower's name on bills of lading; (iii) to clear Inventory through the United States of America Customs Department ("Customs") in the name of such Borrower or Issuer or Issuer's designee, and to sign and deliver to Customs officials powers of attorney in the name of such Borrower for such purpose; and (iv) to complete in such Borrower's name or Issuer's, or in the name of Issuer's designee, any order, sale or transaction, obtain the necessary documents in connection therewith, and collect the proceeds thereof. Neither Agent, Issuer nor their attorneys will be liable for any acts or omissions nor for any error of judgment or mistakes of fact or law, except for Agent's, Issuer's or their respective attorney's willful misconduct. This power, being coupled with an interest, is irrevocable as long as any Letters of Credit remain outstanding.

2.12 Disbursements, Reimbursement.

(a) Immediately upon the issuance of each Letter of Credit, each Lender holding a Revolving Commitment shall be deemed to, and hereby irrevocably and unconditionally agrees to, purchase from Issuer a participation in each Letter of Credit and each drawing thereunder in an amount equal to such Lender's Revolving Commitment Percentage of the Maximum Undrawn Amount of such Letter of Credit (as in effect from time to time) and the amount of such drawing, respectively.

(b) In the event of any request for a drawing under a Letter of Credit by the beneficiary or transferee thereof, Issuer will promptly notify Agent and Borrowing Agent. Regardless of whether Borrowing Agent shall have received such notice, Borrowers shall reimburse (such obligation to reimburse Issuer shall sometimes be referred to as a "Reimbursement Obligation") Issuer prior to 12:00 Noon, on each date that an amount is paid by Issuer under any Letter of Credit (each such date, a "Drawing Date") in an amount equal to the amount so paid by Issuer. In the event Borrowers fail to reimburse Issuer for the full amount of any drawing under any Letter of Credit by 12:00 Noon, on the Drawing Date, Issuer will promptly notify Agent each Lender holding a Revolving Commitment thereof, and Borrowers shall be automatically deemed to have requested that a Revolving Advance maintained as a Domestic Rate Loan be made by Lenders to be disbursed on the Drawing Date under such Letter

of Credit, and Lenders holding the Revolving Commitments shall be unconditionally obligated to fund such Revolving Advance (all whether or not the conditions specified in Section 8.2 are then satisfied or the commitments of Lenders to make Revolving Advances hereunder have been terminated for any reason) as provided for in Section 2.12(c) immediately below. Any notice given by Issuer pursuant to this Section 2.12(b) may be oral if promptly confirmed in writing; provided that the lack of such a confirmation shall not affect the conclusiveness or binding effect of such notice.

(c) Each Lender holding a Revolving Commitment shall upon any notice pursuant to Section 2.12(b) make available to Issuer through Agent at the Payment Office an amount in immediately available funds equal to its Revolving Commitment Percentage (subject to any contrary provisions of Section 2.23) of the amount of the drawing, whereupon the participating Lenders shall (subject to Section 2.12(d)) each be deemed to have made a Revolving Advance maintained as a Domestic Rate Loan to Borrowers in that amount. If any Lender holding a Revolving Commitment so notified fails to make available to Agent, for the benefit of Issuer, the amount of such Lender's Revolving Commitment Percentage of such amount by 2:00 p.m. on the Drawing Date, then interest shall accrue on such Lender's obligation to make such payment, from the Drawing Date to the date on which such Lender makes such payment (i) at a rate per annum equal to the Federal Funds Effective Rate during the first three (3) days following the Drawing Date and (ii) at a rate per annum equal to the rate applicable to Revolving Advances maintained as a Domestic Rate Loan on and after the fourth day following the Drawing Date. Agent and Issuer will promptly give notice of the occurrence of the Drawing Date, but failure of Agent or Issuer to give any such notice on the Drawing Date or in sufficient time to enable any Lender holding a Revolving Commitment to effect such payment on such date shall not relieve such Lender from its obligations under this Section 2.12(c), provided that such Lender shall not be obligated to pay interest as provided in Section 2.12(c) (i) and (ii) until and commencing from the date of receipt of notice from Agent or Issuer of a drawing.

(d) With respect to any unreimbursed drawing that is not converted into a Revolving Advance maintained as a Domestic Rate Loan to Borrowers in whole or in part as contemplated by Section 2.12(b), because of Borrowers' failure to satisfy the conditions set forth in Section 8.2 hereof (other than any notice requirements) or for any other reason, Borrowers shall be deemed to have incurred from Agent a borrowing (each a "Letter of Credit Borrowing") in the amount of such drawing. Such Letter of Credit Borrowing shall be due and payable on demand (together with interest) and shall bear interest at the rate per annum applicable to a Revolving Advance maintained as a Domestic Rate Loan. Each applicable Lender's payment to Agent pursuant to Section 2.12(c) shall be deemed to be a payment in respect of its participation in such Letter of Credit Borrowing and shall constitute a "Participation Advance" from such Lender in satisfaction of its Participation Commitment in respect of the applicable Letter of Credit under this Section 2.12.

(e) Each applicable Lender's Participation Commitment in respect of the Letters of Credit shall continue until the last to occur of any of the following events: (x) Agent ceases to be obligated to issue or cause to be issued Letters of Credit hereunder; (y) no Letter of Credit issued or created hereunder remains outstanding and uncanceled and (z) all Persons (other than Borrowers) have been fully reimbursed for all payments made under or relating to Letters of Credit.

2.13 Repayment of Participation Advances.

(a) Upon (and only upon) receipt by Agent for the account of Issuer of immediately available funds from Borrowers (i) in reimbursement of any payment made by Issuer or Agent under the Letter of Credit with respect to which any Lender has made a Participation Advance to Agent, or (ii) in payment of interest on such a payment made by Issuer or Agent under such a Letter of Credit, Agent will pay to each Lender holding a Revolving Commitment, in the same funds as those received by Agent, the amount of such Lender's Revolving Commitment Percentage of such funds, except Agent shall retain the amount of the Revolving Commitment Percentage of such funds of any Lender holding a Revolving Commitment that did not make a Participation Advance in respect of such payment by Agent (and, to the extent that any of the other Lender(s) holding the Revolving Commitment have funded any portion of such Defaulting Lender's Participation Advance in accordance with the provisions of Section 2.23, Agent will pay over to such Non-Defaulting Lenders a pro rata portion of the funds so withheld from such Defaulting Lender).

(b) If Issuer or Agent is required at any time to return to any Borrower, or to a trustee, receiver, liquidator, custodian, or any official in any insolvency proceeding, any portion of the payments made by Borrowers to Issuer or Agent pursuant to Section 2.13(a) in reimbursement of a payment made under the Letter of Credit or interest or fee thereon, each applicable Lender shall, on demand of Agent, forthwith return to Issuer or Agent the amount of its Revolving Commitment Percentage of any amounts so returned by Issuer or Agent plus interest at the Federal Funds Effective Rate.

2.14 Documentation. Each Borrower agrees to be bound by the terms of the Letter of Credit Application and by Issuer's interpretations of any Letter of Credit issued on behalf of such Borrower and by Issuer's written regulations and customary practices relating to letters of credit, though Issuer's interpretations may be different from such Borrower's own. In the event of a conflict between the Letter of Credit Application and this Agreement, this Agreement shall govern. It is understood and agreed that, except in the case of gross negligence or willful misconduct (as determined by a court of competent jurisdiction in a final non-appealable judgment), Issuer shall not be liable for any error, negligence and/or mistakes, whether of omission or commission, in following Borrowing Agent's or any Borrower's instructions or those contained in the Letters of Credit or any modifications, amendments or supplements thereto.

2.15 Determination to Honor Drawing Request. In determining whether to honor any request for drawing under any Letter of Credit by the beneficiary thereof, Issuer shall be responsible only to determine that the documents and certificates required to be delivered under such Letter of Credit have been delivered and that they comply on their face with the requirements of such Letter of Credit and that any other drawing condition appearing on the face of such Letter of Credit has been satisfied in the manner so set forth.

2.16 Nature of Participation and Reimbursement Obligations. The obligation of each Lender holding a Revolving Commitment in accordance with this Agreement to make the Revolving Advances or Participation Advances as a result of a drawing under a Letter of Credit issued in accordance with the terms of this Agreement, and the obligations of Borrowers to

reimburse Issuer upon a draw under a Letter of Credit issued in accordance with the terms of this Agreement, shall be absolute, unconditional and irrevocable, and shall be performed strictly in accordance with the terms of this Section 2.16 under all circumstances, including the following circumstances:

(i) any set-off, counterclaim, recoupment, defense or other right which such Lender or any Borrower, as the case may be, may have against Issuer, Agent, any Borrower or Lender, as the case may be, or any other Person for any reason whatsoever;

(ii) the failure of any Borrower or any other Person to comply, in connection with a Letter of Credit Borrowing, with the conditions set forth in this Agreement for the making of a Revolving Advance, it being acknowledged that such conditions are not required for the making of a Letter of Credit Borrowing and the obligation of Lenders to make Participation Advances under Section 2.12;

(iii) any lack of validity or enforceability of any Letter of Credit;

(iv) any claim of breach of warranty that might be made by any Borrower, Agent, Issuer or any Lender against the beneficiary of a Letter of Credit, or the existence of any claim, set-off, recoupment, counterclaim, cross-claim, defense or other right which any Borrower, Agent, Issuer or any Lender may have at any time against a beneficiary, any successor beneficiary or any transferee of any Letter of Credit or assignee of the proceeds thereof (or any Persons for whom any such transferee or assignee may be acting), Issuer, Agent or any Lender or any other Person, whether in connection with this Agreement, the transactions contemplated herein or any unrelated transaction (including any underlying transaction between any Borrower or any Subsidiaries of such Borrower and the beneficiary for which any Letter of Credit was procured);

(v) the lack of power or authority of any signer of (or any defect in or forgery of any signature or endorsement on) or the form of or lack of validity, sufficiency, accuracy, enforceability or genuineness of any draft, demand, instrument, certificate or other document presented under or in connection with any Letter of Credit, or any fraud or alleged fraud in connection with any Letter of Credit, or the transport of any property or provision of services relating to a Letter of Credit, in each case even if Issuer or any of Issuer's Affiliates has been notified thereof;

(vi) payment by Issuer under any Letter of Credit against presentation of a demand, draft or certificate or other document which is forged or does not fully comply with the terms of such Letter of Credit (provided that the foregoing shall not excuse Issuer from any obligation under the terms of any applicable Letter of Credit to require the presentation of documents that on their face appear to satisfy any applicable requirements for drawing under such Letter of Credit prior to honoring or paying any such draw);

(vii) the solvency of, or any acts or omissions by, any beneficiary of any

Letter of Credit, or any other Person having a role in any transaction or obligation relating to a Letter of Credit, or the existence, nature, quality, quantity, condition, value or other characteristic of any property or services relating to a Letter of Credit;

(viii) any failure by Issuer or any of Issuer's Affiliates to issue any Letter of Credit in the form requested by Borrowing Agent, unless Agent and Issuer have each received written notice from Borrowing Agent of such failure within three (3) Business Days after Issuer shall have furnished Agent and Borrowing Agent a copy of such Letter of Credit and such error is material and no drawing has been made thereon prior to receipt of such notice;

(ix) the occurrence of any Material Adverse Effect;

(x) any breach of this Agreement or any Other Document by any party thereto;

(xi) the occurrence or continuance of an insolvency proceeding with respect to any Borrower or any Guarantor;

(xii) the fact that a Default or an Event of Default shall have occurred and be continuing;

(xiii) the fact that the Term shall have expired or this Agreement or the obligations of Lenders to make Advances have been terminated; and

(xiv) any other circumstance or happening whatsoever, whether or not similar to any of the foregoing.

2.17 Indemnity. In addition to amounts payable as provided in Section 16.5, each Borrower hereby agrees to protect, indemnify, pay and save harmless Issuer and any of Issuer's Affiliates that have issued a Letter of Credit from and against any and all claims, demands, liabilities, damages, taxes, penalties, interest, judgments, losses, costs, charges and expenses (including reasonable fees, expenses and disbursements of counsel and allocated costs of internal counsel) which Issuer or any of Issuer's Affiliates may incur or be subject to as a consequence, direct or indirect, of the issuance of any Letter of Credit, other than as a result of (A) the gross negligence or willful misconduct of Issuer as determined by a final and non-appealable judgment of a court of competent jurisdiction or (b) the wrongful dishonor by Issuer or any of Issuer's Affiliates of a proper demand for payment made under any Letter of Credit, except if such dishonor resulted from any act or omission, whether rightful or wrongful, of any present or future de jure or de facto Governmental Body (all such acts or omissions herein called "Governmental Acts").

2.18 Liability for Acts and Omissions.

(a) As between Borrowers and Issuer, Agent and Lenders, each Borrower assumes all risks of the acts and omissions of, or misuse of the Letters of Credit by, the respective beneficiaries of such Letters of Credit. In furtherance and not in limitation of the

foregoing, Issuer shall not be responsible for: (i) the form, validity, sufficiency, accuracy, genuineness or legal effect of any document submitted by any party in connection with the application for an issuance of any such Letter of Credit, even if it should in fact prove to be in any or all respects invalid, insufficient, inaccurate, fraudulent or forged (even if Issuer or any of its Affiliates shall have been notified thereof); (ii) the validity or sufficiency of any instrument transferring or assigning or purporting to transfer or assign any such Letter of Credit or the rights or benefits thereunder or proceeds thereof, in whole or in part, which may prove to be invalid or ineffective for any reason; (iii) the failure of the beneficiary of any such Letter of Credit, or any other party to which such Letter of Credit may be transferred, to comply fully with any conditions required in order to draw upon such Letter of Credit or any other claim of any Borrower against any beneficiary of such Letter of Credit, or any such transferee, or any dispute between or among any Borrower and any beneficiary of any Letter of Credit or any such transferee; (iv) errors, omissions, interruptions or delays in transmission or delivery of any messages, by mail, cable, facsimile, telex or otherwise, whether or not they be in cipher; (v) errors in interpretation of technical terms; (vi) any loss or delay in the transmission or otherwise of any document required in order to make a drawing under any such Letter of Credit or of the proceeds thereof; (vii) the misapplication by the beneficiary of any such Letter of Credit of the proceeds of any drawing under such Letter of Credit; or (viii) any consequences arising from causes beyond the control of Issuer, including any Governmental Acts, and none of the above shall affect or impair, or prevent the vesting of, any of Issuer's rights or powers hereunder. Nothing in the preceding sentence shall relieve Issuer from liability for Issuer's gross negligence or willful misconduct (as determined by a court of competent jurisdiction in a final non-appealable judgment) in connection with actions or omissions described in such clauses (i) through (viii) of such sentence. In no event shall Issuer or Issuer's Affiliates be liable to any Borrower for any indirect, consequential, incidental, punitive, exemplary or special damages or expenses (including without limitation attorneys' fees), or for any damages resulting from any change in the value of any property relating to a Letter of Credit.

(b) Without limiting the generality of the foregoing, Issuer and each of its Affiliates (i) may rely on any oral or other communication believed in good faith by Issuer or such Affiliate to have been authorized or given by or on behalf of the applicant for a Letter of Credit; (ii) may honor any presentation if the documents presented appear on their face substantially to comply with the terms and conditions of the relevant Letter of Credit; (iii) may honor a previously dishonored presentation under a Letter of Credit, whether such dishonor was pursuant to a court order, to settle or compromise any claim of wrongful dishonor, or otherwise, and shall be entitled to reimbursement to the same extent as if such presentation had initially been honored, together with any interest paid by Issuer or its Affiliates; (iv) may honor any drawing that is payable upon presentation of a statement advising negotiation or payment, upon receipt of such statement (even if such statement indicates that a draft or other document is being delivered separately), and shall not be liable for any failure of any such draft or other document to arrive, or to conform in any way with the relevant Letter of Credit; (v) may pay any paying or negotiating bank claiming that it rightfully honored under the laws or practices of the place where such bank is located; and (vi) may settle or adjust any claim or demand made on Issuer or its Affiliate in any way related to any order issued at the applicant's request to an air carrier, a letter of guarantee or of indemnity issued to a steamship agent or carrier or any document or instrument of like import (each an "Order") and honor any drawing in connection with any Letter of Credit that is the subject of such Order, notwithstanding that any drafts or other documents

presented in connection with such Letter of Credit fail to conform in any way with such Letter of Credit.

(c) In furtherance and extension and not in limitation of the specific provisions set forth above, any action taken or omitted by Issuer under or in connection with the Letters of Credit issued by it or any documents and certificates delivered thereunder, if taken or omitted in good faith and without gross negligence (as determined by a court of competent jurisdiction in a final non-appealable judgment), shall not put Issuer under any resulting liability to any Borrower, Agent or any Lender.

2.19 Additional Payments. Any sums expended by Agent or any Lender due to any Borrower's failure to perform or comply with its obligations under this Agreement or any Other Document including any Borrower's obligations under Sections 4.2, 4.4, 4.11, 4.15, 6.1 and 6.6 hereof, may be charged to Borrowers' Account as a Revolving Advance and added to the Obligations.

2.20 Manner of Borrowing and Payment.

(a) Each borrowing of Revolving Advances shall be advanced according to the applicable Revolving Commitment Percentages of Lenders (subject to any contrary terms of Section 2.23).

(b) Each payment (including each prepayment) by Borrowers on account of the principal of and interest on the Revolving Advances, shall be applied to the Revolving Advances pro rata according to the applicable Revolving Commitment Percentages of Lenders. Except as expressly provided herein, all payments (including prepayments) to be made by any Borrower on account of principal, interest and fees shall be made without set off or counterclaim and shall be made to Agent on behalf of Lenders to the Payment Office, in each case on or prior to 1:00 p.m., New York time, in Dollars and in immediately available funds.

(c) (i) Notwithstanding anything to the contrary contained in Sections 2.20(a) and (b) hereof, commencing with the first Business Day following the Closing Date, each borrowing of Revolving Advances shall be advanced by Agent and each payment by any Borrower on account of Revolving Advances shall be applied first to those Revolving Advances advanced by Agent. On or before 1:00 p.m., New York time, on each Settlement Date commencing with the first Settlement Date following the Closing Date, Agent and Lenders shall make certain payments as follows: (I) if the aggregate amount of new Revolving Advances made by Agent during the preceding Week (if any) exceeds the aggregate amount of repayments applied to outstanding Revolving Advances during such preceding Week, then each Lender shall provide Agent with funds in an amount equal to its applicable Revolving Commitment Percentage of the difference between (w) such Revolving Advances and (x) such repayments and (II) if the aggregate amount of repayments applied to outstanding Revolving Advances during such Week exceeds the aggregate amount of new Revolving Advances made during such Week, then Agent shall provide each Lender with funds in an amount equal to its applicable Revolving Commitment Percentage of the difference between (y) such repayments and (z) such Revolving Advances.

(ii) Each Lender shall be entitled to earn interest at the applicable Revolving Interest Rate on outstanding Advances which it has funded.

(iii) Promptly following each Settlement Date, Agent shall submit to each Lender a certificate with respect to payments received and Advances made during the Week immediately preceding such Settlement Date. Such certificate of Agent shall be conclusive in the absence of manifest error.

(d) If any Lender or Participant (a "Benefited Lender") shall at any time receive any payment of all or part of its Advances, or interest thereon, or receive any Collateral in respect thereof (whether voluntarily or involuntarily or by set-off) in a greater proportion than any such payment to and Collateral received by any other Lender, if any, in respect of such other Lender's Advances, or interest thereon, and such greater proportionate payment or receipt of Collateral is not expressly permitted hereunder, such Benefited Lender shall purchase for cash from the other Lenders a participation in such portion of each such other Lender's Advances, or shall provide such other Lender with the benefits of any such Collateral, or the proceeds thereof; as shall be necessary to cause such Benefited Lender to share the excess payment or benefits of such Collateral or proceeds ratably with each of the other Lenders; provided, however, that if all or any portion of such excess payment or benefits is thereafter recovered from such Benefited Lender, such purchase shall be rescinded, and the purchase price and benefits returned, to the extent of such recovery, but without interest. Each Lender so purchasing a portion of another Lender's Advances may exercise all rights of payment (including rights of set-off) with respect to such portion as fully as if such Lender were the direct holder of such portion.

(e) Unless Agent shall have been notified by telephone, confirmed in writing, by any Lender that such Lender will not make the amount which would constitute its applicable Revolving Commitment Percentage of the Advances available to Agent, Agent may (but shall not be obligated to) assume that such Lender shall make such amount available to Agent on the next Settlement Date and, in reliance upon such assumption, make available to Borrowers a corresponding amount. Agent will promptly notify Borrowers of its receipt of any such notice from a Lender. If such amount is made available to Agent on a date after such next Settlement Date, such Lender shall pay to Agent on demand an amount equal to the product of (i) the daily average Federal Funds Rate (computed on the basis of a year of 360 days) during such period as quoted by Agent, times (ii) such amount, times (iii) the number of days from and including such Settlement Date to the date on which such amount becomes immediately available to Agent. A certificate of Agent submitted to any Lender with respect to any amounts owing under this paragraph (e) shall be conclusive, in the absence of manifest error. If such amount is not in fact made available to Agent by such Lender within three (3) Business Days after such Settlement Date, Agent shall be entitled to recover such an amount, with interest thereon at the rate per annum then applicable to such Revolving Advances hereunder, on demand from Borrowers; provided, however, that Agent's right to such recovery shall not prejudice or otherwise adversely affect Borrowers' rights (if any) against such Lender.

2.21 Mandatory Prepayments.

(a) Subject to Section 4.3 hereof, when any Loan Party sells or otherwise disposes of any Collateral other than Inventory in the Ordinary Course of Business, Borrowers

shall repay the Advances in an amount equal to the net proceeds of such sale (i.e., gross proceeds less the reasonable direct costs of such sales or other dispositions), such repayments to be made promptly but in no event more than one (1) Business Day following receipt of such net proceeds, and until the date of payment, such proceeds shall be held in trust for Agent. The foregoing shall not be deemed to be implied consent to any such sale otherwise prohibited by the terms and conditions hereof. Such repayments shall be applied to the Advances (including cash collateralization of all Obligations relating to any outstanding Letters of Credit in accordance with the provisions of Section 3.2(b)), in such order as Agent may determine, subject to Borrowers' ability to reborrow Revolving Advances in accordance with the terms hereof.

(b) In the event of any issuance or other incurrence of Indebtedness by Borrowers or the issuance of any Equity Interests by any Borrower, Borrowers shall, no later than one (1) Business Day after the receipt by Borrowers of (i) the cash proceeds from any such issuance or incurrence of Indebtedness or (ii) the net cash proceeds of any issuance of Equity Interests, as applicable, repay the Advances in an amount equal to (x) one hundred percent (100%) of such cash proceeds in the case of such incurrence or issuance of Indebtedness and (y) fifty percent (50%) of such net cash proceeds in the case of an issuance of Equity Interests. Such repayments will be applied in the same manner as set forth in Section 2.21(a) hereof.

(c) All proceeds received by Borrowers or Agent (i) under any insurance policy on account of damage or destruction of any assets or property of any Borrowers, or (ii) as a result of any taking or condemnation of any assets or property shall be applied in accordance with Section 6.6 hereof.

2.22 Use of Proceeds.

(a) Borrowers shall apply the proceeds of Advances to (i) repay existing indebtedness, (ii) pay fees and expenses relating to this transaction, and (iii) provide for its working capital needs and reimburse drawings under Letters of Credit.

(b) Without limiting the generality of Section 2.22(a) above, no Loan Party nor any other Person which may in the future become party to this Agreement or the Other Documents as a Borrower or Guarantor, intends to use nor shall they use any portion of the proceeds of the Advances, directly or indirectly, for any purpose in violation of Applicable Law, including without limitation, the Trading with the Enemy Act and Anti-Terrorism Laws.

2.23 Defaulting Lender.

(a) Notwithstanding anything to the contrary contained herein, in the event any Lender is a Defaulting Lender, all rights and obligations hereunder of such Defaulting Lender and of the other parties hereto shall be modified to the extent of the express provisions of this Section 2.23 so long as such Lender is a Defaulting Lender.

(b) (i) Except as otherwise expressly provided for in this Section 2.23, Revolving Advances shall be made pro rata from Lenders holding Revolving Commitments which are not Defaulting Lenders based on their respective Revolving Commitment Percentages, and no Revolving Commitment Percentage of any Lender or any pro rata share of any Revolving Advances required to be advanced by any Lender shall be increased as a result of any Lender

being a Defaulting Lender. Amounts received in respect of principal of any type of Revolving Advances shall be applied to reduce such type of Revolving Advances of each Lender (other than any Defaulting Lender) holding a Revolving Commitment in accordance with their Revolving Commitment Percentages; provided, that, Agent shall not be obligated to transfer to a Defaulting Lender any payments received by Agent for Defaulting Lender's benefit, nor shall a Defaulting Lender be entitled to the sharing of any payments hereunder (including any principal, interest or fees). Amounts payable to a Defaulting Lender shall instead be paid to or retained by Agent. Agent may hold and, in its discretion, re-lend to a Borrower the amount of such payments received or retained by it for the account of such Defaulting Lender.

(ii) fees pursuant to Section 3.3(b) hereof shall cease to accrue in favor of such Defaulting Lender.

(iii) if any Letters of Credit (or drawings under any Letter of Credit for which Issuer has not been reimbursed) are outstanding or exist at the time any such Lender holding a Revolving Commitment becomes a Defaulting Lender, then:

(A) Defaulting Lender's Participation Commitment in the Maximum Undrawn Amount of all outstanding Letters of Credit shall be reallocated among Non-Defaulting Lenders holding Revolving Commitments in proportion to the respective Revolving Commitment Percentages of such Non-Defaulting Lenders to the extent (but only to the extent) that (x) such reallocation does not cause the aggregate sum of outstanding Revolving Advances made by any such Non-Defaulting Lender holding a Revolving Commitment plus such Lender's reallocated Participation Commitment in the aggregate Maximum Undrawn Amount of all outstanding Letters of Credit to exceed the Revolving Commitment Amount of any such Non-Defaulting Lender, and (y) no Default or Event of Default has occurred and is continuing at such time;

(B) If the reallocation described in clause (A) above cannot, or can only partially, be effected, Borrowers shall within one Business Day following notice by Agent, cash collateralize for the benefit of Issuer, Borrowers' obligations corresponding to such Defaulting Lender's Participation Commitment in the Maximum Undrawn Amount of all Letters of Credit (after giving effect to any partial reallocation pursuant to clause (A) above) in accordance with Section 3.2(b) for so long as such Obligations are outstanding;

(C) if Borrowers cash collateralize any portion of such Defaulting Lender's Participation Commitment in the Maximum Undrawn Amount of all Letters of Credit pursuant to clause (B) above, Borrowers shall not be required to pay any fees to such Defaulting Lender pursuant to Section 3.2(a) with respect to such Defaulting Lender's Revolving Commitment Percentage of Maximum Undrawn Amount of all Letters of Credit during the period such Defaulting Lender's Participation Commitment in the Maximum Undrawn Amount of all Letters of Credit are cash collateralized;

(D) if Defaulting Lender's Participation Commitment in the Maximum Undrawn Amount of all Letters of Credit is reallocated pursuant to clause (A) above, then the fees payable to Lenders holding Revolving Commitments pursuant to Section 3.2(a) shall be adjusted and reallocated to Non-Defaulting Lenders holding Revolving Commitments in

accordance with such reallocation; and

(E) if all or any portion of such Defaulting Lender's Participation Commitment in the Maximum Undrawn Amount of all Letters of Credit is neither reallocated nor cash collateralized pursuant to clauses (A) or (B) above, then, without prejudice to any rights or remedies of Issuer or any other Lender hereunder, all Letter of Credit Fees payable under Section 3.2(a) with respect to such Defaulting Lender's Revolving Commitment Percentage of the Maximum Undrawn Amount of all Letters of Credit shall be payable to Issuer (and not to such Defaulting Lender) until (and then only to the extent that) such Participation Commitment in the Maximum Undrawn Amount of all Letters of Credit is reallocated and/or cash collateralized; and

(iv) so long as any Lender holding a Revolving Commitment is a Defaulting Lender, Issuer shall not be required to issue, amend or increase any Letter of Credit, unless such Issuer is satisfied that the related exposure and Defaulting Lender's Participation Commitment in the Maximum Undrawn Amount of all Letters of Credit (after giving effect to any such issuance, amendment, increase or funding) will be fully allocated to Non-Defaulting Lenders holding Revolving Commitments and/or cash collateral for such Letters of Credit will be provided by Borrowers in accordance with clause (A) and (B) above, and participating interests in any newly issued or increased Letter of Credit shall be allocated among Non-Defaulting Lenders in a manner consistent with Section 2.23(b)(iii)(A) above (and such Defaulting Lender shall not participate therein).

(c) A Defaulting Lender shall not be entitled to give instructions to Agent or to approve, disapprove, consent to or vote on any matters relating to this Agreement and the Other Documents, and all amendments, waivers and other modifications of this Agreement and the Other Documents may be made without regard to a Defaulting Lender and, for purposes of the definition of "Required Lenders", a Defaulting Lender shall not be deemed to be a Lender, to have any outstanding Advances or a Revolving Commitment Percentage.

(d) Other than as expressly set forth in this Section 2.23, the rights and obligations of a Defaulting Lender (including the obligation to indemnify Agent) and the other parties hereto shall remain unchanged. Nothing in this Section 2.23 shall be deemed to release any Defaulting Lender from its obligations under this Agreement and the Other Documents, shall alter such obligations, shall operate as a waiver of any default by such Defaulting Lender hereunder, or shall prejudice any rights which any Borrower, Agent or any Lender may have against any Defaulting Lender as a result of any default by such Defaulting Lender hereunder.

(e) In the event that Agent, Borrowers and Issuer agree in writing that a Defaulting Lender has adequately remedied all matters that caused such Lender to be a Defaulting Lender, then Agent will so notify the parties hereto, and, if such cured Defaulting Lender is a Lender holding a Revolving Commitment, then Participation Commitments of Lenders holding Revolving Commitments (including such cured Defaulting Lender) of the Maximum Undrawn Amount of all outstanding Letters of Credit shall be reallocated to reflect the inclusion of such Lender's Revolving Commitment, and on such date such Lender shall purchase at par such of the Revolving Advances of the other Lenders as Agent shall determine

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may be necessary in order for such Lender to hold such Revolving Advances in accordance with its Revolving Commitment Percentage.

(f) If Issuer has a good faith belief that any Lender holding a Revolving Commitment has defaulted in fulfilling its obligations under one or more other agreements in which such Lender commits to extend credit, Issuer shall not be required to issue, amend or increase any Letter of Credit, unless Issuer shall have entered into arrangements with Borrowers or such Lender satisfactory to Issuer to defease any risk to it in respect of such Lender hereunder.

III. INTEREST AND FEES.

3.1 Interest. Interest on Advances shall be payable in arrears on the first day of each month with respect to Domestic Rate Loans; provided that all accrued and unpaid interest shall be due and payable at the end of the Term. Interest charges shall be computed on the actual principal amount of Advances outstanding during the month at a rate per annum equal to with respect to Revolving Advances, the applicable Revolving Interest Rate. Except as expressly provided otherwise in this Agreement, any Obligations other than the Advances that are not paid when due shall accrue interest at the Revolving Interest Rate for Domestic Rate Loans, subject to the provision of the final sentence of this Section 3.1 regarding the Default Rate. Whenever, subsequent to the date of this Agreement, the Alternate Base Rate is increased or decreased, the Revolving Interest Rate for Domestic Rate Loans shall be similarly changed without notice or demand of any kind by an amount equal to the amount of such change in the Alternate Base Rate during the time such change or changes remain in effect. Upon and after the occurrence of an Event of Default, and during the continuation thereof, at the option of Agent or at the direction of Required Lenders (or, in the case of any Event of Default under Section 10.7, immediately and automatically upon the occurrence of any such Event of Default without the requirement of any affirmative action by any party), the Obligations shall bear interest at the applicable Revolving Interest Rate plus two (2%) percent per annum (the "Default Rate").

3.2 Letter of Credit Fees.

(a) Borrowers shall pay (x) to Agent, for the ratable benefit of Lenders holding Revolving Commitments, fees for each Letter of Credit for the period from and excluding the date of issuance of same to and including the date of expiration or termination, equal to the average daily face amount of each outstanding Letter of Credit multiplied by the Applicable Margin for Revolving Advances consisting of Domestic Rate Loans, such fees to be calculated on the basis of a 360-day year for the actual number of days elapsed and to be payable quarterly in arrears on the first day of each calendar quarter and on the last day of the Term, and (y) to Issuer, a fronting fee of one quarter of one percent (0.25%) per annum times the average daily face amount of each outstanding Letter of Credit for the period from and excluding the date of issuance of same to and including the date of expiration or termination, to be payable quarterly in arrears on the first day of each calendar quarter and on the last day of the Term (all of the foregoing fees, the "Letter of Credit Fees"). In addition, Borrowers shall pay to Agent, for the benefit of Issuer, any and all administrative, issuance, amendment, payment and negotiation charges with respect to Letters of Credit and all fees and expenses as agreed upon by Issuer and the Borrowing Agent in connection with any Letter of Credit, including in connection with the opening, amendment or renewal of any such Letter of Credit and any acceptances created

thereunder, all such charges, fees and expenses, if any, to be payable on demand. All such charges shall be deemed earned in full on the date when the same are due and payable hereunder and shall not be subject to rebate or pro-rata upon the termination of this Agreement for any reason. Any such charge in effect at the time of a particular transaction shall be the charge for that transaction, notwithstanding any subsequent change in Issuer's prevailing charges for that type of transaction. Upon and after the occurrence of an Event of Default, and during the continuation thereof, at the option of Agent or at the direction of Required Lenders (or, in the case of any Event of Default under Section 10.7, immediately and automatically upon the occurrence of any such Event of Default without the requirement of any affirmative action by any party), the Letter of Credit Fees described in clause (x) of this Section 3.2(a) shall be increased by an additional two percent (2.0%) per annum.

(b) Upon the occurrence and during the continuance of an Event of Default, on demand, at the option of Agent or at the direction of Required Lenders (or, in the case of any Event of Default under Section 10.7, immediately and automatically upon the occurrence of such Event of Default, without the requirement of any affirmative action by any party), or upon the expiration of the Term or any other termination of this Agreement (and also, if applicable, in connection with any mandatory prepayment under Section 2.21), Borrowers will cause cash to be deposited and maintained in an account with Agent, as cash collateral, in an amount equal to one hundred and five percent (105%) of the Maximum Undrawn Amount of all outstanding Letters of Credit, and each Borrower hereby irrevocably authorizes Agent, in its discretion, on such Borrower's behalf and in such Borrower's name, to open such an account and to make and maintain deposits therein, or in an account opened by such Borrower, in the amounts required to be made by such Borrower, out of the proceeds of Receivables or other Collateral or out of any other funds of such Borrower coming into any Lender's possession at any time. Agent may, in its discretion, invest such cash collateral (less applicable reserves) in such short-term money-market items as to which Agent and such Borrower mutually agree (or, in the absence of such agreement, as Agent may reasonably select) and the net return on such investments shall be credited to such account and constitute additional cash collateral, or Agent may (notwithstanding the foregoing) establish the account provided for under this Section 3.2(b) as a non-interest bearing account and in such case Agent shall have no obligation (and Borrowers hereby waive any claim) under Article 9 of the Uniform Commercial Code or under any other Applicable Law to pay interest on such cash collateral being held by Agent. No Borrower may withdraw amounts credited to any such account except upon the occurrence of all of the following: (x) payment and performance in full of all Obligations; (y) expiration of all Letters of Credit; and (z) termination of this Agreement. Borrowers hereby assign, pledge and grant to Agent, for its benefit and the ratable benefit of Issuer, Lenders and each other Secured Party, a continuing security interest in and to and Lien on any such cash collateral and any right, title and interest of Borrowers in any deposit account, securities account or investment account into which such cash collateral may be deposited from time to time to secure the Obligations, specifically including all Obligations with respect to any Letters of Credit. Borrowers agree that upon the coming due of any Reimbursement Obligations (or any other Obligations, including Obligations for Letter of Credit Fees) with respect to the Letters of Credit, Agent may use such cash collateral to pay and satisfy such Obligations.

3.3 Facility Fee.

(a) [Reserved]

(b) Facility Fee. If, for any calendar quarter during the Term, the average daily unpaid balance of the Revolving Advances plus the undrawn amount of any outstanding Letters of Credit for each day of such calendar quarter does not equal the Maximum Revolving Advance Amount, then Borrowers shall pay to Agent for the ratable benefit of Lenders holding the Revolving Commitments based on their Revolving Commitment Percentages, a fee at a rate equal to 0.375% per annum (computed on the basis of a 360 day basis and actual days elapsed) on the amount by which the Maximum Revolving Advance Amount exceeds such average daily unpaid balance (the "Facility Fee"). The Facility Fee shall be payable to Agent in arrears on the first day of each calendar quarter with respect to the previous calendar quarter.

3.4 Collateral Evaluation Fee and Fee Letter.

(a) Borrowers shall pay the amounts required to be paid in the Fee Letter in the manner and at the times required by the Fee Letter.

(b) All of the fees and out-of-pocket costs and expenses of any appraisals conducted pursuant to Sections 4.10 or 4.11 hereof shall be paid for when due, in full and without deduction, off-set or counterclaim by Borrowers.

3.5 Computation of Interest and Fees. Interest on Domestic Rate Loans shall be computed on the basis of a 365/366 day basis, and actual days elapsed. If any payment to be made hereunder becomes due and payable on a day other than a Business Day, the due date thereof shall be extended to the next succeeding Business Day and interest thereon shall be payable at the Revolving Interest Rate for Domestic Rate Loans during such extension.

3.6 Maximum Charges. In no event whatsoever shall interest and other charges charged hereunder exceed the highest rate permissible under Applicable Law. In the event interest and other charges as computed hereunder would otherwise exceed the highest rate permitted under Applicable Law: (i) the interest rates hereunder will be reduced to the maximum rate permitted under Applicable Law; (ii) such excess amount shall be first applied to any unpaid principal balance owed by Borrowers; and (iii) if the then remaining excess amount is greater than the previously unpaid principal balance, Lenders shall promptly refund such excess amount to Borrowers and the provisions hereof shall be deemed amended to provide for such permissible rate.

3.7 Increased Costs. In the event that any Applicable Law or any Change in Law or compliance by any Lender (for purposes of this Section 3.7, the term "Lender" shall include Agent, any Issuer or any Lender and any corporation or bank controlling Agent, any Lender or Issuer) and the office or branch where Agent, any Lender or Issuer (as so defined) makes or maintains any Loans with any request or directive (whether or not having the force of law) from any central bank or other financial, monetary or other authority, shall:

(a) subject Agent, any Lender or Issuer to any tax of any kind whatsoever with respect to this Agreement, any Letter of Credit, any participation in a Letter of Credit or any Loan, or change the basis of taxation of payments to Agent, such Lender or Issuer in respect thereof (except for Indemnified Taxes or Other Taxes covered by Section 3.10 and the

imposition of, or any change in the rate of, any Excluded Tax payable by Agent, such Lender or Issuer);

(b) impose, modify or deem applicable any reserve, special deposit, assessment, special deposit, compulsory loan, insurance charge or similar requirement against assets held by, or deposits in or for the account of, advances or loans by, or other credit extended by, any office of Agent, Issuer or any Lender, including pursuant to Regulation D of the Board of Governors of the Federal Reserve System; or

(c) impose on Agent, any Lender or Issuer or the London interbank LIBOR market any other condition, loss or expense (other than Taxes) affecting this Agreement or any Other Document or any Advance made by any Lender, or any Letter of Credit or participation therein;

and the result of any of the foregoing is to increase the cost to Agent, any Lender or Issuer of making, converting to, continuing, renewing or maintaining its Advances hereunder by an amount that Agent, such Lender or Issuer deems to be material or to reduce the amount of any payment (whether of principal, interest or otherwise) in respect of any of the Advances by an amount that Agent or such Lender or Issuer deems to be material, then, in any case Borrowers shall promptly pay Agent, such Lender or Issuer, upon its demand, such additional amount as will compensate Agent or such Lender or Issuer for such additional cost or such reduction, as the case may be. Agent, such Lender or Issuer shall certify the amount of such additional cost or reduced amount to Borrowing Agent, and such certification shall be conclusive absent manifest error.

3.8 Reserved.

3.9 Capital Adequacy.

(a) In the event that Agent or any Lender shall have determined that any Applicable Law or guideline regarding capital adequacy, or any Change in Law or any change in the interpretation or administration thereof by any Governmental Body, central bank or comparable agency charged with the interpretation or administration thereof, or compliance by Agent, Issuer or any Lender (for purposes of this Section 3.9, the term "Lender" shall include Agent, Issuer or any Lender and any corporation or bank controlling Agent or any Lender and the office or branch where Agent or any Lender (as so defined) makes or maintains any Loans) with any request or directive regarding capital adequacy (whether or not having the force of law) of any such authority, central bank or comparable agency, has or would have the effect of reducing the rate of return on Agent or any Lender's capital as a consequence of its obligations hereunder to a level below that which Agent or such Lender could have achieved but for such adoption, change or compliance (taking into consideration Agent's and each Lender's policies with respect to capital adequacy) by an amount deemed by Agent or any Lender to be material, then, from time to time, Borrowers shall pay upon demand to Agent or such Lender such additional amount or amounts as will compensate Agent or such Lender for such reduction. In determining such amount or amounts, Agent or such Lender may use any reasonable averaging or attribution methods. The protection of this Section 3.9 shall be available to Agent and each Lender regardless of any possible contention of invalidity or inapplicability with respect to the

Applicable Law, rule, regulation, guideline or condition.

(b) A certificate of Agent or such Lender setting forth such amount or amounts as shall be necessary to compensate Agent or such Lender with respect to Section 3.9(a) above when delivered to Borrowing Agent shall be conclusive absent manifest error.

3.10 Taxes.

(a) Any and all payments by or on account of any Obligations hereunder or under any Other Document shall be made free and clear of and without reduction or withholding for any Indemnified Taxes or Other Taxes; provided that if Borrowers shall be required by Applicable Law to deduct any Indemnified Taxes (including any Other Taxes) from such payments, then (i) the sum payable shall be increased as necessary so that after making all required deductions (including deductions applicable to additional sums payable under this Section) Agent, Lender, Issuer or Participant, as the case may be, receives an amount equal to the sum it would have received had no such deductions been made, (ii) Borrowers shall make such deductions and (iii) Borrowers shall timely pay the full amount deducted to the relevant Governmental Body in accordance with Applicable Law.

(b) Without limiting the provisions of Section 3.10(a) above, Borrowers shall timely pay any Other Taxes to the relevant Governmental Body in accordance with Applicable Law.

(c) Each Borrower shall indemnify Agent, each Lender, Issuer and any Participant, within ten (10) days after demand therefor, for the full amount of any Indemnified Taxes or Other Taxes (including Indemnified Taxes or Other Taxes imposed or asserted on or attributable to amounts payable under this Section) paid by Agent, such Lender, Issuer, or such Participant, as the case may be, and any penalties, interest and reasonable 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 Body. A certificate as to the amount of such payment or liability delivered to Borrowers by any Lender, Participant, or Issuer (with a copy to Agent), or by Agent on its own behalf or on behalf of a Lender or Issuer, shall be conclusive absent manifest error.

(d) As soon as practicable after any payment of Indemnified Taxes or Other Taxes by any Borrower to a Governmental Body, Borrowers shall deliver to Agent the original or a certified copy of a receipt issued by such Governmental Body evidencing such payment, a copy of the return reporting such payment or other evidence of such payment reasonably satisfactory to Agent.

(e) Any Foreign Lender that is entitled to an exemption from or reduction of withholding tax under the law of the jurisdiction in which any Borrower is resident for tax purposes, or under any treaty to which such jurisdiction is a party, with respect to payments hereunder or under any Other Document shall deliver to Borrowers (with a copy to Agent), at the time or times prescribed by Applicable Law or reasonably requested by Borrowers or Agent, such properly completed and executed documentation prescribed by Applicable Law as will permit such payments to be made without withholding or at a reduced rate of withholding.

Notwithstanding the submission of such documentation claiming a reduced rate of or exemption from U.S. withholding tax, Agent shall be entitled to withhold United States federal income taxes at the full 30% withholding rate if in its reasonable judgment it is required to do so under the due diligence requirements imposed upon a withholding agent under § 1.1441-7(b) of the United States Income Tax Regulations or other Applicable Law. Further, Agent is indemnified under § 1.1461-1(e) of the United States Income Tax Regulations against any claims and demands of any Lender, Issuer or assignee or participant of a Lender or Issuer for the amount of any tax it deducts and withholds in accordance with regulations under § 1441 of the Code. In addition, any Lender, if requested by Borrowers or Agent, shall deliver such other documentation prescribed by Applicable Law or reasonably requested by Borrowers or Agent as will enable Borrowers or Agent to determine whether or not such Lender is subject to backup withholding or information reporting requirements. Without limiting the generality of the foregoing, in the event that any Borrower is resident for tax purposes in the United States of America, any Foreign Lender (or other Lender) shall deliver to Borrowers and Agent (in such number of copies as shall be requested by the recipient) on or prior to the date on which such Foreign Lender (or other Lender) becomes a Lender under this Agreement (and from time to time thereafter upon the request of Borrowers or Agent, but only if such Foreign Lender (or other Lender) is legally entitled to do so), whichever of the following is applicable: two (2) duly completed valid originals of IRS Form W-8BEN claiming eligibility for benefits of an income tax treaty to which the United States of America is a party,

(i) two (2) duly completed valid originals of IRS Form W-8ECI (2014 revision),

(ii) in the case of a Foreign Lender claiming the benefits of the exemption for portfolio interest under section 881(c) of the Code, (x) a certificate to the effect that such Foreign Lender is not (A) a "bank" within the meaning of section 881(c)(3)(A) of the Code, (B) a "10 percent shareholder" of Borrowers within the meaning of section 881(c)(3)(B) of the Code, or (C) a "controlled foreign corporation" described in section 881(c)(3)(C) of the Code and (y) two duly completed valid originals of IRS Form W-8BEN-E,

(iii) any other form prescribed by Applicable Law as a basis for claiming exemption from or a reduction in United States Federal withholding tax duly completed together with such supplementary documentation as may be prescribed by Applicable Law to permit Borrowers to determine the withholding or deduction required to be made, or

(iv) To the extent that any Lender is not a Foreign Lender, such Lender shall submit to Agent two (2) originals of an IRS Form W-9 or any other form prescribed by Applicable Law demonstrating that such Lender is not a Foreign Lender.

(f) If a payment made to a Lender, Participant, Issuer, or Agent under this Agreement or any Other Document would be subject to U.S. Federal withholding Tax imposed by FATCA if such Person fails 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, Participant, Issuer, or Agent shall deliver to Agent (in the case of a Lender, Participant or Issuer) and Borrowers (A) a certification signed by the chief financial officer, principal accounting officer, treasurer or controller of such Person, and (B) other documentation

reasonably requested by Agent or any Borrower sufficient for Agent and Borrowers to comply with their obligations under FATCA and to determine that such Lender, Participant, Issuer, or Agent has complied with such applicable reporting requirements.

3.11 Replacement of Lenders. If any Lender (an "Affected Lender") (a) makes demand upon Borrowers for (or if Borrowers are otherwise required to pay) amounts pursuant to Section 3.7 or 3.9 hereof, (b) is unable to make or maintain Loans as a result of a condition described in Section 2.2(h) hereof, (c) is a Defaulting Lender, or (d) denies any consent requested by Agent pursuant to Section 16.2(b) hereof, Borrowers may, within ninety (90) days of receipt of such demand, notice (or the occurrence of such other event causing Borrowers to be required to pay such compensation or causing Section 2.2(h) hereof to be applicable), or such Lender becoming a Defaulting Lender or denial of a request by Agent pursuant to Section 16.2(b) hereof, as the case may be, by notice in writing to Agent and such Affected Lender (i) request the Affected Lender to cooperate with Borrowers in obtaining a replacement Lender satisfactory to Agent and Borrowers (the "Replacement Lender"); (ii) request the non-Affected Lenders to acquire and assume all of the Affected Lender's Advances and its Revolving Commitment Percentage, as provided herein, but none of such Lenders shall be under any obligation to do so; or (iii) propose a Replacement Lender subject to approval by Agent in its good faith business judgment. If any satisfactory Replacement Lender shall be obtained, and/or if any one or more of the non-Affected Lenders shall agree to acquire and assume all of the Affected Lender's Advances and its Revolving Commitment Percentage, then such Affected Lender shall assign, in accordance with Section 16.3 hereof, all of its Advances and its Revolving Commitment Percentage, and other rights and obligations under this Loan Agreement and the Other Documents to such Replacement Lender or non-Affected Lenders, as the case may be, in exchange for payment of the principal amount so assigned and all interest and fees accrued on the amount so assigned, *plus* all other Obligations then due and payable to the Affected Lender.

IV. COLLATERAL: GENERAL TERMS

4.1 Security Interest in the Collateral. To secure the prompt payment and performance to Agent, Issuer and each Lender (and each other holder of any Obligations) of the Obligations, each Borrower hereby assigns, pledges and grants to Agent for its benefit and for the ratable benefit of each Lender, Issuer and each other Secured Party, a continuing security interest in and to and Lien on all of its Collateral, whether now owned or existing or hereafter created, acquired or arising and wheresoever located. Each Borrower shall mark its books and records as may be necessary or appropriate to evidence, protect and perfect Agent's security interest and shall cause its financial statements to reflect such security interest. Each Borrower shall provide Agent with written notice of all commercial tort claims promptly upon the occurrence of any events giving rise to any such claim(s) (regardless of whether legal proceedings have yet been commenced), such notice to contain a brief description of the claim(s), the events out of which such claim(s) arose and the parties against which such claims may be asserted and, if applicable in any case where legal proceedings regarding such claim(s) have been commenced, the case title together with the applicable court and docket number. Upon delivery of each such notice, such Borrower shall be deemed to thereby grant to Agent a security interest and lien in and to such commercial tort claims described therein and all proceeds thereof. Each Borrower shall provide Agent with written notice promptly upon becoming the

beneficiary under any letter of credit or otherwise obtaining any right, title or interest in any letter of credit rights, and at Agent's request shall take such actions as Agent may reasonably request for the perfection of Agent's security interest therein.

4.2 Perfection of Security Interest. Each Loan Party shall take all action that Agent may request, so as at all times to maintain the validity, perfection, enforceability and priority of Agent's security interest in and Lien on the Collateral or to enable Agent to protect, exercise or enforce its rights hereunder and in the Collateral, including, but not limited to, (i) immediately discharging all Liens other than Permitted Encumbrances, (ii) obtaining Lien Waiver Agreements, (iii) delivering to Agent, endorsed or accompanied by such instruments of assignment as Agent may specify, and stamping or marking, in such manner as Agent may specify, any and all chattel paper, instruments, letters of credits and advices thereof and documents evidencing or forming a part of the Collateral, (iv) entering into warehousing, lockbox, customs and freight agreements and other custodial arrangements satisfactory to Agent, and (v) executing and delivering financing statements, control agreements, instruments of pledge, mortgages, notices and assignments, in each case in form and substance satisfactory to Agent, relating to the creation, validity, perfection, maintenance or continuation of Agent's security interest and Lien under the Uniform Commercial Code or other Applicable Law. By its signature hereto, each Loan Party hereby authorizes Agent to file against such Loan Party, one or more financing, continuation or amendment statements pursuant to the Uniform Commercial Code in form and substance satisfactory to Agent (which statements may have a description of collateral which is broader than that set forth herein, including without limitation a description of Collateral as "all assets" and/or "all personal property" of any Borrower). All charges, expenses and fees Agent may incur in doing any of the foregoing, and any local taxes relating thereto, shall be charged to Borrowers' Account as a Revolving Advance of a Domestic Rate Loan and added to the Obligations, or, at Agent's option, shall be paid by Borrowers to Agent for its benefit and for the ratable benefit of Lenders immediately upon demand.

4.3 Disposition of Collateral. Each Loan Party will safeguard and protect all Collateral for Agent's general account and make no disposition thereof whether by sale, lease or otherwise except the sale of Inventory in the Ordinary Course of Business.

4.4 Preservation of Collateral. Following the occurrence of a Default or Event of Default, in addition to the rights and remedies set forth in Section 11.1 hereof, Agent: (a) may at any time take such steps as Agent deems necessary to protect Agent's interest in and to preserve the Collateral, including the hiring of security guards or the placing of other security protection measures as Agent may deem appropriate; (b) may employ and maintain at any of any Loan Party's premises a custodian who shall have full authority to do all acts necessary to protect Agent's interests in the Collateral; (c) may lease warehouse facilities to which Agent may move all or part of the Collateral; (d) may use any Loan Party's owned or leased lifts, hoists, trucks and other facilities or equipment for handling or removing the Collateral; and (e) subject to the prior rights of any applicable landlord or mortgagee, shall have, and is hereby granted, a right of ingress and egress to the places where the Collateral is located, and may proceed over and through any of Loan Party's owned or leased property. Each Loan Party shall cooperate fully with all of Agent's efforts to preserve the Collateral and will take such actions to preserve the Collateral as Agent may direct. All of Agent's expenses of preserving the Collateral, including

any expenses relating to the bonding of a custodian, shall be charged to Borrowers' Account as a Revolving Advance maintained as a Domestic Rate Loan and added to the Obligations.

4.5 Ownership and Location of Collateral.

(a) With respect to the Collateral, at the time the Collateral becomes subject to Agent's security interest: (i) each Loan Party shall be the sole owner of and fully authorized and able to sell, transfer, pledge and/or grant a first priority security interest in each and every item of its respective Collateral to Agent; and, except for Permitted Encumbrances the Collateral shall be free and clear of all Liens whatsoever; (ii) each document and agreement executed by each Loan Party or delivered to Agent or any Lender in connection with this Agreement shall be true and correct in all respects; (iii) all signatures and endorsements of each Loan Party that appear on such documents and agreements shall be genuine and each Loan Party shall have full capacity to execute same; and (iv) each Loan Party's Equipment and Inventory shall be located as set forth on Schedule 4.5 and shall not be removed from such location(s) without the prior written consent of Agent except with respect to the sale of Inventory in the Ordinary Course of Business.

(b) (i) There is no location at which any Loan Party has any Inventory (except for Inventory in transit) other than those locations listed on Schedule 4.5; (ii) Schedule 4.5 hereto contains a correct and complete list, as of the Closing Date, of the legal names and addresses of each warehouse at which Inventory of any Loan Party is stored; none of the receipts received by any Loan Party from any warehouse states that the goods covered thereby are to be delivered to bearer or to the order of a named Person or to a named Person and such named Person's assigns; (iii) Schedule 4.5 hereto sets forth a correct and complete list as of the Closing Date of (A) each place of business of each Loan Party and (B) the chief executive office of each Loan Party; and (iv) Schedule 4.5 hereto sets forth a correct and complete list as of the Closing Date of the location, by state and street address, of all Real Property owned or leased by each Loan Party, identifying which properties are owned and which are leased, together with the names and addresses of any landlords.

4.6 Defense of Agent's and Lenders' Interests. Until (a) payment and performance in full of all of the Obligations and (b) termination of this Agreement, Agent's interests in the Collateral shall continue in full force and effect. During such period no Loan Party shall, without Agent's prior written consent, pledge, sell (except for sales or other dispositions otherwise permitted in Section 7.1(b) hereof), assign, transfer, create or suffer to exist a Lien upon or encumber or allow or suffer to be encumbered in any way except for Permitted Encumbrances, any part of the Collateral. Each Loan Party shall defend Agent's interests in the Collateral against any and all Persons whatsoever. At any time following demand by Agent for payment of all Obligations, Agent shall have the right to take possession of the indicia of the Collateral and the Collateral in whatever physical form contained, including: labels, stationery, documents, instruments and advertising materials. If Agent exercises this right to take possession of the Collateral, Loan Parties shall, upon demand, assemble it in the best manner possible and make it available to Agent at a place reasonably convenient to Agent. In addition, with respect to all Collateral, Agent and Lenders shall be entitled to all of the rights and remedies set forth herein and further provided by the Uniform Commercial Code or other Applicable Law. Each Loan Party shall, and Agent may, at its option, instruct all suppliers, carriers, forwarders,

warehousers or others receiving or holding cash, checks, Inventory, documents or instruments in which Agent holds a security interest to deliver same to Agent and/or subject to Agent's order and if they shall come into any Loan Party's possession, they, and each of them, shall be held by such Loan Party in trust as Agent's trustee, and such Loan Party will immediately deliver them to Agent in their original form together with any necessary endorsement.

4.7 [Reserved]

4.8 [Reserved]

4.9 [Reserved]

4.10 Inspection of Premises. At all reasonable times Agent and each Lender shall have full access to and the right to audit, check, inspect and make abstracts and copies from each Loan Party's books, records, audits, hedge audits, correspondence and all other papers relating to the Collateral and the operation of each Loan Party's business. Agent, any Lender and their agents may enter upon any premises of any Loan Party at any time during business hours and at any other reasonable time, and from time to time, for the purpose of inspecting the Collateral and any and all records pertaining thereto and the operation of such Loan Party's business. Notwithstanding anything herein to the contrary, (i) prior to the occurrence of an Event of Default that is continuing, (1) Agent shall (y) give the applicable Loan Party at least one day's prior notice before so entering such Loan Party's premises to do any of the foregoing and (z) conduct such field examinations, audits, hedge audits, inspections and appraisals no more frequently than three times per fiscal year and (2) Borrowers shall be responsible for paying for all such field examinations, audits, inspections and appraisals, and (ii) after the occurrence of an Event of Default that is continuing, (1) Agent (y) shall not be obligated to give the applicable Loan Party any prior notice that it intends to enter such Loan Party's premises to do any of the foregoing and (z) may conduct field examinations, audits, hedge audits, inspections and appraisals at any time and from time to time and (2) Borrowers shall be responsible for paying for all such field examination, audits, hedge audits, inspections and appraisals.

4.11 Appraisals. Agent may, in its Permitted Discretion, at any time after the Closing Date and from time to time, engage the services of an independent appraisal firm or firms of reputable standing, satisfactory to Agent, for the purpose of appraising the then current values of Borrowers' assets. Absent the occurrence and continuance of an Event of Default at such time, Agent shall consult with Borrowers as to the identity of any such firm. In the event the value of Borrowers' Inventory, as so determined pursuant to such appraisal, is less than anticipated by Agent or Lenders, such that the Revolving Advances are in excess of such Advances permitted hereunder, then, promptly upon Agent's demand for same, Borrowers shall make mandatory prepayments of the then outstanding Revolving Advances so as to eliminate the excess Advances.

4.12 [Reserved]

4.13 [Reserved]

4.14 [Reserved]

4.15 Payment of Leasehold Obligations. Each Loan Party shall at all times pay, when and as due, its rental obligations under all leases under which it is a tenant, and shall otherwise comply, in all material respects, with all other terms of such leases and keep them in full force and effect and, at Agent's request will provide evidence of having done so.

4.16 Receivables.

(a) Nature of Receivables. Each of the Receivables shall be a bona fide and valid account representing a bona fide indebtedness incurred by the Customer therein named, for a fixed sum as set forth in the invoice relating thereto (provided immaterial or unintentional invoice errors shall not be deemed to be a breach hereof) with respect to an absolute sale or lease and delivery of goods upon stated terms of a Loan Party, or work, labor or services theretofore rendered by a Loan Party as of the date each Receivable is created. Same shall be due and owing in accordance with the applicable Loan Party's standard terms of sale without dispute, setoff or counterclaim except as may be stated on the accounts receivable schedules delivered by Loan Parties to Agent.

(b) Solvency of Customers. Each Customer, to the best of each Loan Party's knowledge, as of the date each Receivable is created, is and will be solvent and able to pay all Receivables on which the Customer is obligated in full when due or with respect to such Customers of any Loan Party who are not solvent such Loan Party has set up on its books and in its financial records bad debt reserves adequate to cover such Receivables.

(c) Location of Loan Parties. Each Loan Party's state of organization is as set forth on, and chief executive office is located at those locations set forth on, Schedule 4.16(c) hereto. Until written notice is given to Agent by Borrowing Agent of any other office at which any Loan Party keeps its records pertaining to Receivables, all such records shall be kept at such executive office.

(d) Collection of Receivables. Borrowers shall instruct their Customers to deliver all remittances upon Receivables (whether paid by check or by wire transfer of funds) to such Blocked Account(s) and/or Depository Accounts (and any associated lockboxes) as Agent shall designate from time to time as contemplated by Section 4.16(h) or as otherwise agreed to from time to time by Agent. Notwithstanding the foregoing, to the extent any Borrower directly receives any remittances upon Receivables, such Borrower shall, at such Borrower's sole cost and expense, but on Agent's behalf and for Agent's account, collect as Agent's property and in trust for Agent all amounts received on Receivables, and shall not commingle such collections with any Borrower's funds or use the same except to pay Obligations, and shall as soon as possible and in any event no later than one (1) Business Day after the receipt thereof (i) in the case of remittances paid by check, deposit all such remittances in their original form (after supplying any necessary endorsements) and (ii) in the case of remittances paid by wire transfer of funds, transfer all such remittances, in each case, into such Blocked Accounts(s) and/or Depository Account(s). Each Borrower shall deposit in the Blocked Account and/or Depository Account or, upon request by Agent, deliver to Agent, in original form and on the date of receipt thereof, all checks, drafts, notes, money orders, acceptances, cash and other evidences of Indebtedness.

(e) Notification of Assignment of Receivables. At any time following the occurrence of an Event of Default or a Default, Agent shall have the right to send notice of the assignment of, and Agent's security interest in and Lien on, the Receivables to any and all Customers or any third party holding or otherwise concerned with any of the Collateral. Thereafter, Agent shall have the sole right to collect the Receivables, take possession of the Collateral, or both. Agent's actual collection expenses, including, but not limited to, stationery and postage, telephone, facsimile and telegraph, secretarial and clerical expenses and the salaries of any collection personnel used for collection, may be charged to Borrowers' Account and added to the Obligations.

(f) Power of Agent to Act on Loan Parties' Behalf. Agent shall have the right to receive, endorse, assign and/or deliver in the name of Agent or any Loan Party any and all checks, drafts and other instruments for the payment of money relating to the Receivables, and each Loan Party hereby waives notice of presentment, protest and non-payment of any instrument so endorsed. Each Loan Party hereby constitutes Agent or Agent's designee as such Loan Party's attorney with power at any time after the occurrence of an Event of Default or Default (i) to endorse such Loan Party's name upon any notes, acceptances, checks, drafts, money orders or other evidences of payment or Collateral; (ii) to sign such Loan Party's name on any invoice or bill of lading relating to any of the Receivables, drafts against Customers, assignments and verifications of Receivables; (iii) to send verifications of Receivables to any Customer; (iv) to sign such Loan Party's name on all financing statements or any other documents or instruments deemed necessary or appropriate by Agent to preserve, protect, or perfect Agent's interest in the Collateral and to file same; (v) to receive, open and dispose of all mail addressed to any Borrower at any post office box/lockbox maintained by Agent for Borrowers or at any other business premises of Agent; (vi) to demand payment of the Receivables; (vii) to enforce payment of the Receivables by legal proceedings or otherwise; (viii) to exercise all of such Loan Party's rights and remedies with respect to the collection of the Receivables and any other Collateral; (ix) to sue upon or otherwise collect, extend the time of payment of, settle, adjust, compromise, extend or renew the Receivables; (x) to settle, adjust or compromise any legal proceedings brought to collect Receivables; (xi) to prepare, file and sign such Loan Party's name on a proof of claim in bankruptcy or similar document against any Customer; (xii) to prepare, file and sign such Loan Party's name on any notice of Lien, assignment or satisfaction of Lien or similar document in connection with the Receivables; (xiii) to accept the return of goods represented by any of the Receivables; (xiv) to change the address for delivery of mail addressed to any Borrower to such address as Agent may designate; and (xv) to do all other acts and things necessary to carry out this Agreement. All acts of said attorney or designee are hereby ratified and approved, and said attorney or designee shall not be liable for any acts of omission or commission nor for any error of judgment or mistake of fact or of law, unless done maliciously or with gross (not mere) negligence (as determined by a court of competent jurisdiction in a final non-appealable judgment); this power being coupled with an interest is irrevocable while any of the Obligations remain unpaid. Agent shall have the right at any time following the occurrence of an Event of Default or Default, to change the address for delivery of mail addressed to any Loan Party to such address as Agent may designate and to receive, open and dispose of all mail addressed to any Loan Party.

(g) No Liability. Neither Agent nor any Lender shall, under any circumstances or in any event whatsoever, have any liability for any error or omission or delay of

any kind occurring in the settlement, collection or payment of any of the Receivables or any instrument received in payment thereof, or for any damage resulting therefrom. Following the occurrence of an Event of Default or Default Agent may, without notice or consent from any Loan Party, sue upon or otherwise collect, extend the time of payment of, compromise or settle for cash, credit or upon any terms any of the Receivables or any other securities, instruments or insurance applicable thereto and/or release any obligor thereof. Agent is authorized and empowered to accept following the occurrence of an Event of Default or Default the return of the goods represented by any of the Receivables, without notice to or consent by any Loan Party, all without discharging or in any way affecting any Loan Party's liability hereunder.

(h) Establishment of a Lockbox Account, Dominion Account. All proceeds of Collateral shall be deposited by Loan Parties into either (i) a lockbox account, dominion account or such other "blocked account" ("Blocked Accounts") established at a bank or banks (each such bank, a "Blocked Account Bank") pursuant to an arrangement with such Blocked Account Bank as may be acceptable to Agent or (ii) depository accounts ("Depository Accounts") established at Agent for the deposit of such proceeds. Each applicable Loan Party, Agent and each Blocked Account Bank shall enter into a deposit account control agreement in form and substance satisfactory to Agent that is sufficient to give Agent "control" (for purposes of Articles 8 and 9 of the Uniform Commercial Code) over such account and which directs such Blocked Account Bank to transfer such funds so deposited on a daily basis, or at other times acceptable to Agent, to Agent, either to any account maintained by Agent at said Blocked Account Bank or by wire transfer to appropriate account(s) at Agent. All funds deposited in such Blocked Accounts or Depository Accounts shall immediately become subject to the security interest of Agent for its own benefit and the ratable benefit of Issuer, Lenders and all other holders of the Obligations, and Borrowing Agent shall obtain the agreement by such Blocked Account Bank to waive any offset rights against the funds so deposited. Neither Agent nor any Lender assumes any responsibility for such blocked account arrangement, including any claim of accord and satisfaction or release with respect to deposits accepted by any Blocked Account Bank thereunder. Agent shall apply all funds received by it from the Blocked Accounts and/or Depository Accounts to the satisfaction of the Obligations (including the cash collateralization of the Letters of Credit when required by this Agreement) in such order as Agent shall determine in its sole discretion, provided that, in the absence of any Event of Default, Agent shall apply all such funds representing collection of Receivables first to the prepayment of the principal amount of the Revolving Advances.

(i) Adjustments. No Loan Party will, without Agent's consent, compromise or adjust any Receivables (or extend the time for payment thereof) or accept any returns of merchandise or grant any additional discounts, allowances or credits thereon except for those compromises, adjustments, returns, discounts, credits and allowances as have been heretofore customary in the Ordinary Course of Business of such Loan Party.

(j) All deposit accounts (including all Blocked Accounts and Depository Accounts), securities accounts and investment accounts of each Borrower and its Subsidiaries as of the Closing Date are set forth on Schedule 4.16(j). No Borrower shall open any new deposit account, securities account or investment account unless (i) Borrowers shall have given at least thirty (30) days prior written notice to Agent and (ii) if such account is to be maintained with a bank, depository institution or securities intermediary that is not Agent, such bank, depository

institution or securities intermediary, each applicable Borrower and Agent shall first have entered into an account control agreement in form and substance satisfactory to Agent sufficient to give Agent "control" (for purposes of Articles 8 and 9 of the Uniform Commercial Code) over such account.

4.17 Inventory. To the extent Inventory held for sale or lease has been produced by any Loan Party, it has been and will be produced by such Loan Party in accordance with the Federal Fair Labor Standards Act of 1938, as amended, and all rules, regulations and orders thereunder.

4.18 Maintenance of Equipment. The Equipment shall be maintained in good operating condition and repair (reasonable wear and tear excepted) and all necessary replacements of and repairs thereto shall be made so that the value and operating efficiency of the Equipment shall be maintained and preserved. No Loan Party shall use or operate the Equipment in violation of any law, statute, ordinance, code, rule or regulation.

4.19 Exculpation of Liability. Nothing herein contained shall be construed to constitute Agent or any Lender as any Loan Party's agent for any purpose whatsoever, nor shall Agent or any Lender be responsible or liable for any shortage, discrepancy, damage, loss or destruction of any part of the Collateral wherever the same may be located and regardless of the cause thereof. Neither Agent nor any Lender, whether by anything herein or in any assignment or otherwise, assume any of any Loan Party's obligations under any contract or agreement assigned to Agent or such Lender, and neither Agent nor any Lender shall be responsible in any way for the performance by any Loan Party of any of the terms and conditions thereof.

4.20 [Reserved.]

4.21 Financing Statements. Except as respects the financing statements filed by Agent and the financing statements described on Schedule 1.2, no financing statement covering any of the Collateral or any proceeds thereof is on file in any public office.

V. REPRESENTATIONS AND WARRANTIES.

Each Loan Party represents and warrants as follows:

5.1 Authority. Each Loan Party has full power, authority and legal right to enter into this Agreement and the Other Documents to which it is a party and to perform all its respective Obligations hereunder and thereunder. This Agreement and the Other Documents to which it is a party have been duly executed and delivered by each Loan Party, and this Agreement, the Subordination Agreement and the Other Documents to which it is a party constitute the legal, valid and binding obligation of such Loan Party enforceable in accordance with their terms, except as such enforceability may be limited by any applicable bankruptcy, insolvency, moratorium or similar laws affecting creditors' rights generally. The execution, delivery and performance of this Agreement and of the Other Documents to which it is a party (a) are within such Loan Party's corporate or company powers, as applicable, have been duly authorized by all necessary corporate or company action, as applicable, are not in contravention of law or the terms of such Loan Party's Organizational Documents or to the conduct of such Loan Party's business or of any Material Contract or undertaking to which such Loan Party is a party or by

which such Loan Party is bound, (b) will not conflict with or violate any law or regulation, or any judgment, order or decree of any Governmental Body, (c) will not require the Consent of any Governmental Body, any party to a Material Contract or any other Person, except those Consents set forth on Schedule 5.1 hereto, all of which will have been duly obtained, made or compiled prior to the Closing Date and which are in full force and effect and (d) will not conflict with, nor result in any breach in any of the provisions of or constitute a default under or result in the creation of any Lien except Permitted Encumbrances upon any asset of such Loan Party under the provisions of any agreement, charter document, instrument, by-law or other instrument to which such Loan Party is a party or by which it or its property is a party or by which it may be bound.

5.2 Formation and Qualification.

(a) Each Loan Party is duly incorporated and in good standing under the laws of the state listed on Schedule 5.2(a) and is qualified to do business and is in good standing in the states listed on Schedule 5.2(a) which constitute all states in which qualification and good standing are necessary for such Loan Party to conduct its business and own its property and where the failure to so qualify could reasonably be expected to have a Material Adverse Effect on such Loan Party. Each Loan Party has delivered to Agent true and complete copies of its Organizational Documents and will promptly notify Agent of any amendment or changes thereto.

(b) The only Subsidiaries of each Loan Party are listed on Schedule 5.2(b).

5.3 Survival of Representations and Warranties. All representations and warranties of such Loan Party contained in this Agreement and the Other Documents to which it is a party shall be true at the time of such Loan Party's execution of this Agreement and the Other Documents to which it is a party, and shall survive the execution, delivery and acceptance thereof by the parties thereto and the closing of the transactions described therein or related thereto.

5.4 Tax Returns. Each Loan Party's federal tax identification number is set forth on Schedule 5.4. Each Loan Party has filed all federal, state and local tax returns and other reports each is required by law to file and has paid all taxes, assessments, fees and other governmental charges that are due and payable. Federal, state and local income tax returns of each Loan Party have been examined and reported upon by the appropriate taxing authority or closed by applicable statute and satisfied for all fiscal years prior to and including the fiscal year ending December 31, 2015. The provision for taxes on the books of each Loan Party is adequate for all years not closed by applicable statutes, and for its current fiscal year, and no Loan Party has any knowledge of any deficiency or additional assessment in connection therewith not provided for on its books.

5.5 Financial Statements.

(a) The pro forma balance sheet of Borrowers on a Consolidated Basis (the "Pro Forma Balance Sheet") furnished to Agent on the Closing Date reflects the consummation of the transactions contemplated under this Agreement (collectively, the "Transactions") and is

accurate, complete and correct and fairly reflects the financial condition of Borrowers on a Consolidated Basis as of the Closing Date after giving effect to the Transactions, and has been prepared in accordance with GAAP, consistently applied. The Pro Forma Balance Sheet has been certified as accurate, complete and correct in all material respects by the President and Chief Financial Officer of Borrowing Agent. All financial statements referred to in this subsection 5.5(a), including the related schedules and notes thereto, have been prepared in accordance with GAAP, except as may be disclosed in such financial statements.

(b) The twelve-month cash flow and balance sheet projections of Borrowers on a Consolidated Basis, copies of which are annexed hereto as Exhibit 5.5(b) (the "Projections") were prepared by the Chief Financial Officer of Borrowers, are based on underlying assumptions which provide a reasonable basis for the projections contained therein and reflect Loan Parties' judgment based on present circumstances of the most likely set of conditions and course of action for the projected period. The cash flow Projections together with the Pro Forma Balance Sheet are referred to as the "Pro Forma Financial Statements."

(c) The consolidated and consolidating balance sheets of Loan Parties, their Subsidiaries and such other Persons described therein (including the accounts of all Subsidiaries for the respective periods during which a subsidiary relationship existed) as of December 31, 2015, and the related statements of income, changes in stockholder's equity, and changes in cash flow for the period ended on such date, all accompanied by reports thereon containing opinions without qualification by independent certified public accountants, copies of which have been delivered to Agent, have been prepared in accordance with GAAP, consistently applied (except for changes in application in which such accountants concur and present fairly the financial position of Loan Parties and their Subsidiaries at such date and the results of their operations for such period. Since December 31, 2015, there has been no change in the condition, financial or otherwise, of Loan Parties or their Subsidiaries as shown on the consolidated balance sheet as of such date and no change in the aggregate value of machinery, equipment and Real Property owned by Loan Parties and their respective Subsidiaries, except changes in the Ordinary Course of Business, none of which individually or in the aggregate has been materially adverse.

5.6 Entity Names. No Loan Party has been known by any other company or corporate name, as applicable, in the past five (5) years and does not sell Inventory under any other name except as set forth on Schedule 5.6, nor has any Loan Party been the surviving corporation or company, as applicable, of a merger or consolidation or acquired all or substantially all of the assets of any Person during the preceding five (5) years.

5.7 O.S.H.A. and Environmental Compliance.

(a) Each Loan Party has duly complied with, and its facilities, business, assets, property, leaseholds, Real Property and Equipment are in compliance in all material respects with, the provisions of the Federal Occupational Safety and Health Act, the Environmental Protection Act, RCRA and all other Environmental Laws; there have been no outstanding citations, notices or orders of non-compliance issued to any Loan Party or relating to its business, assets, property, leaseholds or Equipment under any such laws, rules or regulations.

(b) Each Loan Party has been issued all required federal, state and local licenses, certificates or permits (collectively, "Approvals") relating to all applicable Environmental Laws and all such Approvals are current and in full force and effect.

(c) (i) There are no releases, spills, discharges, leaks or disposal (collectively referred to as "Releases") of Hazardous Materials at, upon, under or within any Real Property or any premises leased by any Loan Party (ii) there are no underground storage tanks or polychlorinated biphenyls on the Real Property or any premises leased by any Loan Party; (iii) neither the Real Property nor any premises leased by any Loan Party has ever been used as a treatment, storage or disposal facility of Hazardous Waste; and (iv) no Hazardous Materials are present on the Real Property or any premises leased by any Loan Party.

(d) All Real Property owned by Loan Parties is insured pursuant to policies and other bonds which are valid and in full force and effect and which provide adequate coverage from reputable and financially sound insurers in amounts sufficient to insure the assets and risks of each such Loan Party in accordance with prudent business practice in the industry of such Loan Party. Each Loan Party has taken all actions required under the Flood Laws and/or requested by Agent to assist in ensuring that each Lender is in compliance with the Flood Laws applicable to the Collateral, including, but not limited to, providing Agent with the address and/or GPS coordinates of each structure located upon any Real Property that will be subject to a Mortgage in favor of Agent, for the benefit of Lenders, and, to the extent required, obtaining flood insurance for such property, structures and contents prior to such property, structures and contents becoming Collateral.

5.8 Solvency; No Litigation, Violation, Indebtedness or Default.

(a) Each Loan Party is solvent, able to pay its debts as they mature, has capital sufficient to carry on its business and all businesses in which it is about to engage, and (i) as of the Closing Date, the fair present saleable value of its assets, calculated on a going concern basis, is in excess of the amount of its liabilities and (ii) subsequent to the Closing Date, the fair saleable value of its assets (calculated on a going concern basis) will be in excess of the amount of its liabilities.

(b) Except as disclosed in Schedule 5.8(b), no Loan Party has (i) any pending or threatened litigation, arbitration, actions or proceedings which involve the possibility of having a Material Adverse Effect, or (ii) any outstanding Indebtedness other than (x) the Obligations and (y) Indebtedness otherwise permitted under Section 7.8 hereof.

(c) No Loan Party is in violation of any applicable statute, law, rule, regulation or ordinance in any respect which could reasonably be expected to have a Material Adverse Effect, nor is any Loan Party in violation of any order of any court, Governmental Body or arbitration board or tribunal. Each Plan is in compliance in all material respects with the applicable provisions of ERISA, the Code and other federal or state laws.

(d) No Loan Party nor any member of the Controlled Group maintains or contributes to any Plan other than (i) as of the Closing Date, those listed on Schedule 5.8(d) hereto and (ii) thereafter, as permitted under this Agreement. (i) No Plan has incurred any

“accumulated funding deficiency,” as defined in Section 302(a)(2) of ERISA and Section 412(a) of the Code, whether or not waived, and each Loan Party and each member of the Controlled Group has met all applicable minimum funding requirements under Section 302 of ERISA in respect of each Plan; (ii) each Plan which is intended to be a qualified plan under Section 401(a) of the Code as currently in effect has been determined by the Internal Revenue Service to be qualified under Section 401(a) of the Code and the trust related thereto is exempt from federal income tax under Section 501(a) of the Code; (iii) neither any Loan Party nor any member of the Controlled Group has incurred any liability to the PBGC other than for the payment of premiums, and there are no premium payments which have become due which are unpaid; (iv) no Plan has been terminated by the plan administrator thereof nor by the PBGC, and there is no occurrence which would cause the PBGC to institute proceedings under Title IV of ERISA to terminate any Plan; (v) at this time, the current value of the assets of each Plan exceeds the present value of the accrued benefits and other liabilities of such Plan and neither any Loan Party nor any member of the Controlled Group knows of any facts or circumstances which would materially change the value of such assets and accrued benefits and other liabilities and could reasonably be expected to have a Material Adverse Effect; (vi) neither any Loan Party nor any member of the Controlled Group has breached any of the responsibilities, obligations or duties imposed on it by ERISA with respect to any Plan; (vii) neither any Loan Party nor any member of a Controlled Group has incurred any liability for any excise tax arising under Section 4972 or 4980B of the Code, and no fact exists which could give rise to any such liability; (viii) neither any Loan Party nor any member of the Controlled Group nor any fiduciary of, nor any trustee to, any Plan, has engaged in a “prohibited transaction” described in Section 406 of the ERISA or Section 4975 of the Code nor taken any action which would constitute or result in a Termination Event with respect to any such Plan which is subject to ERISA; (ix) each Loan Party and each member of the Controlled Group has made all contributions due and payable with respect to each Plan; (x) there exists no event described in Section 4043(b) of ERISA, for which the thirty (30) day notice period has not been waived; (xi) neither any Loan Party nor any member of the Controlled Group has any fiduciary responsibility for investments with respect to any plan existing for the benefit of persons other than employees or former employees of any Loan Party and any member of the Controlled Group; (xii) neither any Loan Party nor any member of the Controlled Group maintains or contributes to any Plan which provides health, accident or life insurance benefits to former employees, their spouses or dependents, other than in accordance with Section 4980B of the Code; (xiii) neither any Loan Party nor any member of the Controlled Group has withdrawn, completely or partially, from any Multiemployer Plan so as to incur liability under the Multiemployer Pension Plan Amendments Act of 1980 and there exists no fact which would reasonably be expected to result in any such liability; and (xiv) no Plan fiduciary (as defined in Section 3(21) of ERISA) has any liability for breach of fiduciary duty or for any failure in connection with the administration or investment of the assets of a Plan.

5.9 Patents, Trademarks, Copyrights and Licenses. All Intellectual Property owned or utilized by any Borrower: (i) is set forth on Schedule 5.9; (ii) is valid and has been duly registered or filed with all appropriate Governmental Bodies; and (iii) constitutes all of the intellectual property rights which are necessary for the operation of its business. There is no objection to, pending challenge to the validity of, or proceeding by any Governmental Body to suspend, revoke, terminate or adversely modify, any such Intellectual Property and to the best of Borrower’s knowledge, no grounds for any challenge or proceedings exist, except as set forth in Schedule 5.9 hereto. All Intellectual Property owned or held by any Borrower consists of

original material or property developed by such Borrower or was lawfully acquired by such Borrower from the proper and lawful owner thereof. Each of such items has been maintained so as to preserve the value thereof from the date of creation or acquisition thereof.

5.10 Licenses and Permits. Except as set forth in Schedule 5.10, each Loan Party (a) is in compliance with and (b) has procured and is now in possession of, all material licenses or permits required by any applicable federal, state, provincial or local law, rule or regulation for the operation of its business in each jurisdiction wherein it is now conducting or proposes to conduct business and where the failure to procure such licenses or permits could have a Material Adverse Effect.

5.11 Default of Indebtedness. No Loan Party is in default in the payment of the principal of or interest on any Indebtedness or under any instrument or agreement under or subject to which any Indebtedness has been issued and no event has occurred under the provisions of any such instrument or agreement which with or without the lapse of time or the giving of notice, or both, constitutes or would constitute an event of default thereunder, in each case, which could reasonably be expected to have a Material Adverse Effect.

5.12 No Default. No Loan Party is in default in the payment or performance of any of its contractual obligations and no Default or Event of Default has occurred.

5.13 No Burdensome Restrictions. No Loan Party is party to any contract or agreement the performance of which could have a Material Adverse Effect. Each Loan Party has heretofore delivered to Agent true and complete copies of all material contracts to which it is a party or to which it or any of its properties is subject. No Loan Party has agreed or consented to cause or permit in the future (upon the happening of a contingency or otherwise) any of its property, whether now owned or hereafter acquired, to be subject to a Lien which is not a Permitted Encumbrance.

5.14 No Labor Disputes. No Loan Party is involved in any labor dispute; there are no strikes or walkouts or union organization of any Loan Party's employees threatened or in existence and no labor contract is scheduled to expire during the Term other than as set forth on Schedule 5.14 hereto.

5.15 Margin Regulations. No Loan Party is engaged, nor will it engage, principally or as one of its important activities, in the business of extending credit for the purpose of "purchasing" or "carrying" any "margin stock" within the respective meanings of each of the quoted terms under Regulation U of the Board of Governors of the Federal Reserve System as now and from time to time hereafter in effect. No part of the proceeds of any Advance will be used for "purchasing" or "carrying" "margin stock" as defined in Regulation U of such Board of Governors.

5.16 Investment Company Act. No Loan Party is an "investment company" registered or required to be registered under the Investment Company Act of 1940, as amended, nor is it controlled by such a company.

5.17 Disclosure. No representation or warranty made by any Loan Party in this Agreement, or in any financial statement, report, certificate or any other document furnished in

connection herewith or therewith contains any untrue statement of a material fact or omits to state any material fact necessary to make the statements herein or therein not misleading. There is no fact known to any Loan Party or which reasonably should be known to such Loan Party which such Loan Party has not disclosed to Agent in writing with respect to the transactions contemplated by this Agreement which could reasonably be expected to have a Material Adverse Effect.

5.18 [Reserved]

5.19 Swaps. No Loan Party is a party to, nor will it be a party to, any swap agreement whereby such Loan Party has agreed or will agree to swap interest rates or currencies unless same provides that damages upon termination following an event of default thereunder are payable on an unlimited "two-way basis" without regard to fault on the part of either party.

5.20 Conflicting Agreements. No provision of any mortgage, indenture, contract, agreement, judgment, decree or order binding on any Loan Party or affecting the Collateral conflicts with, or requires any Consent which has not already been obtained to, or would in any way prevent the execution, delivery or performance of, the terms of this Agreement or the Other Documents.

5.21 Application of Certain Laws and Regulations. Neither any Loan Party nor any Affiliate of any Loan Party is subject to any law, statute, rule or regulation which regulates the incurrence of any Indebtedness, including laws, statutes, rules or regulations relative to common or interstate carriers or to the sale of electricity, gas, steam, water, telephone, telegraph or other public utility services.

5.22 Business and Property of Loan Parties. Upon and after the Closing Date, Loan Parties do not propose to engage in any business other than as set forth on Schedule 5.22 hereto and activities necessary to conduct the foregoing. On the Closing Date, each Loan Party will own all the property and possess all of the rights and Consents necessary for the conduct of the business of such Loan Party.

5.23 Section 20 Subsidiaries. Loan Parties do not intend to use and shall not use any portion of the proceeds of the Advances, directly or indirectly, to purchase during the underwriting period, or for 30 days thereafter, Ineligible Securities being underwritten by a Section 20 Subsidiary.

5.24 Anti-Terrorism Laws.

(a) General. Neither any Loan Party nor any Affiliate of any Loan Party is in violation of any Anti-Terrorism Law or engages in or conspires to engage in any transaction that evades or avoids, or has the purpose of evading or avoiding, or attempts to violate, any of the prohibitions set forth in any Anti-Terrorism Law.

(b) Executive Order No. 13224. Neither any Loan Party nor any Affiliate of any Loan Party or their respective agents acting or benefiting in any capacity in connection with the Advances or other transactions hereunder, is any of the following (each a "Blocked Person"):

(i) a Person that is listed in the annex to, or is otherwise subject to the provisions of, the Executive Order No. 13224;

(ii) a Person owned or controlled by, or acting for or on behalf of, any Person that is listed in the annex to, or is otherwise subject to the provisions of, the Executive Order No. 13224;

(iii) a Person or entity with which any Lender is prohibited from dealing or otherwise engaging in any transaction by any Anti-Terrorism Law;

(iv) a Person or entity that commits, threatens or conspires to commit or supports "terrorism" as defined in the Executive Order No. 13224;

(v) a Person or entity that is named as a "specially designated national" on the most current list published by the U.S. Treasury Department Office of Foreign Asset Control at its official website or any replacement website or other replacement official publication of such list, or

(vi) a Person or entity who is affiliated or associated with a Person or entity listed above.

Neither any Loan Party nor to the knowledge of any Loan Party, any of its agents acting in any capacity in connection with the Advances or other transactions hereunder (i) conducts any business or engages in making or receiving any contribution of funds, goods or services to or for the benefit of any Blocked Person, or (ii) deals in, or otherwise engages in any transaction relating to, any property or interests in property blocked pursuant to the Executive Order No. 13224.

5.25 Trading with the Enemy. No Loan Party has engaged, nor does it intend to engage, in any business or activity prohibited by the Trading with the Enemy Act.

5.26 Federal Securities Laws. Neither any Loan Party nor any of its Subsidiaries (i) is required to file periodic reports under the Exchange Act, (ii) has any securities registered under the Exchange Act or (iii) has filed a registration statement that has not yet become effective under the Securities Act.

5.27 Common Enterprise. The successful operation and condition of each of the Loan Parties is dependent on the continued successful performance of the functions of the group of the Loan Parties as a whole, and the successful operation of each of the Loan Parties is dependent on the successful performance and operation of each other Loan Party. Each Loan Party expects to derive benefit (and its board of directors or other governing body has determined that it may reasonably be expected to derive benefit), directly and indirectly, from (i) successful operations of each of the other Loan Parties and (ii) the credit extended by Lenders to the Loan Parties hereunder, both in their separate capacities and as members of the group of companies. Each Loan Party has determined that execution, delivery, and performance of this Agreement and any Other Documents to be executed by such Loan Party is within its purpose, will be of direct and indirect benefit to such Loan Party, and is in its best interest.

5.28 Equity Interests. The authorized and outstanding Equity Interests of each Borrower, and each legal and beneficial holder thereof as of the Closing Date, are as set forth on Schedule 5.28(a) hereto. All of the Equity Interests of each Borrower have been duly and validly authorized and issued and are fully paid and non-assessable and have been sold and delivered to the holders hereof in compliance with, or under valid exemption from, all federal and state laws and the rules and regulations of each Governmental Body governing the sale and delivery of securities. Except for the rights and obligations set forth on Schedule 5.28(b), there are no subscriptions, warrants, options, calls, commitments, rights or agreement by which any Borrower or any of the shareholders of any Borrower is bound relating to the issuance, transfer, voting or redemption of shares of its Equity Interests or any pre-emptive rights held by any Person with respect to the Equity Interests of Borrowers. Except as set forth on Schedule 5.28(c), Borrowers have not issued any securities convertible into or exchangeable for shares of its Equity Interests or any options, warrants or other rights to acquire such shares or securities convertible into or exchangeable for such shares.

5.29 Commercial Tort Claims. No Borrower has any commercial tort claims except as set forth on Schedule 5.29 hereto.

5.30 Letter of Credit Rights. As of the Closing Date, no Borrower has any letter of credit rights except as set forth on Schedule 5.30 hereto.

5.31 Material Contracts. Schedule 5.31 sets forth all Material Contracts of Borrowers. All Material Contracts are in full force and effect and no material defaults currently exist thereunder.

VI. AFFIRMATIVE COVENANTS.

Each Loan Party shall, until payment in full of the Obligations and termination of this Agreement:

6.1 Payment of Fees. Pay to Agent on demand all usual and customary fees and expenses which Agent incurs in connection with (a) the forwarding of Advance proceeds, (b) the establishment and maintenance of any Blocked Accounts or Depository Accounts as provided for in Section 4.16(h) and (c) the hiring of a third party to review the Borrowing Base Certificate, financial statements and other deliverables provided by the Borrowers under Article IX. Agent may, without making demand, charge Borrowers' Account for all such fees and expenses.

6.2 Conduct of Business and Maintenance of Existence and Assets. (a) Conduct continuously and operate actively its business according to good business practices and maintain all of its properties useful or necessary in its business in good working order and condition (reasonable wear and tear excepted and except as may be disposed of in accordance with the terms of this Agreement), including all licenses, patents, copyrights, design rights, tradenames, trade secrets and trademarks and take all actions necessary to enforce and protect the validity of any intellectual property right or other right included in the Collateral; (b) keep in full force and effect its existence and comply in all material respects with the laws and regulations governing the conduct of its business where the failure to do so could reasonably be expected to have a Material Adverse Effect; and (c) make all such reports and pay all such franchise and other taxes

and license fees and do all such other acts and things as may be lawfully required to maintain its rights, licenses, leases, powers and franchises under the laws of the United States or any political subdivision thereof.

6.3 Violations. Promptly notify Agent in writing of any violation of any law, statute, regulation or ordinance of any Governmental Body, or of any agency thereof, applicable to any Loan Party which could reasonably be expected to have a Material Adverse Effect.

6.4 Government Receivables. Take all steps necessary to protect Agent's interest in the Collateral under the Federal Assignment of Claims Act, the Uniform Commercial Code and all other applicable state or local statutes or ordinances and deliver to Agent appropriately endorsed, any instrument or chattel paper connected with any Receivable arising out of contracts between any Loan Party and the United States, any state or any department, agency or instrumentality of any of them.

6.5 Fixed Charge Coverage Ratio. Cause to be maintained as of the end of each fiscal quarter, commencing December 31, 2016, a Fixed Charge Coverage Ratio (for Borrowers and their consolidated Subsidiaries) of not less than 1.10 to 1.0, calculated for the four (4) fiscal quarter period then ending.

6.6 Insurance.

(a) (i) Shall, and shall cause each Subsidiary to, maintain with financially sound and reputable carriers having a financial strength rating of at least A- by A.M. Best Company, (ii) keep all its insurable properties and properties in which such Borrower has an interest insured against the hazards of fire, flood, sprinkler leakage, those hazards covered by extended coverage insurance and such other hazards, and for such amounts, as is customary in the case of companies engaged in businesses similar to such Borrower's including business interruption insurance; (iii) maintain a bond in such amounts as is customary in the case of companies engaged in businesses similar to such Borrower insuring against larceny, embezzlement or other criminal misappropriation of insured's officers and employees who may either singly or jointly with others at any time have access to the assets or funds of such Borrower either directly or through authority to draw upon such funds or to direct generally the disposition of such assets; (iv) maintain public and product liability insurance against claims for personal injury, death or property damage suffered by others; (v) maintain all such worker's compensation or similar insurance as may be required under the laws of any state or jurisdiction in which such Borrower is engaged in business; (vi) furnish Agent with (A) copies of all policies and evidence of the maintenance of such policies by the renewal thereof at least thirty (30) days before any expiration date, and (B) appropriate loss payable endorsements in form and substance satisfactory to Agent, naming Agent as an additional insured and mortgagee and/or lender loss payee (as applicable) as its interests may appear with respect to all insurance coverage referred to in clauses (ii), and (iv) above, and providing (I) that all proceeds thereunder shall be payable to Agent, (II) no such insurance shall be affected by any act or neglect of the insured or owner of the property described in such policy, and (III) that such policy and loss payable clauses may not be cancelled, amended or terminated unless at least thirty (30) days prior written notice is given to Agent (or in the case of non-payment, at least ten (10) days prior written notice). In the event of any loss thereunder, the carriers named therein hereby are directed by Agent and the

applicable Borrower to make payment for such loss to Agent and not to such Borrower and Agent jointly. If any insurance losses are paid by check, draft or other instrument payable to any Borrower and Agent jointly, Agent may endorse such Borrower's name thereon and do such other things as Agent may deem advisable to reduce the same to cash.

(b) Each Borrower shall take all actions required under the Flood Laws and/or requested by Agent to assist in ensuring that each Lender is in compliance with the Flood Laws applicable to the Collateral, including, but not limited to, providing Agent with the address and/or GPS coordinates of each structure on any real property that will be subject to a mortgage in favor of Agent, for the benefit of Lenders, and, to the extent required, obtaining flood insurance for such property, structures and contents prior to such property, structures and contents becoming Collateral, and thereafter maintaining such flood insurance in full force and effect for so long as required by the Flood Laws.

(c) During the occurrence and continuance of an Event of Default, Agent is hereby authorized to adjust and compromise claims under insurance coverage referred to in Sections 6.6(a)(i) and (iii) and Section 6.6(b) above. All loss recoveries received by Agent under any such insurance may be applied to the Obligations, in such order as Agent in its sole discretion shall determine. Any surplus shall be paid by Agent to Borrowers or applied as may be otherwise required by law. Any deficiency thereon shall be paid by Borrowers to Agent, on demand. If any Borrower fails to obtain insurance as hereinabove provided, or to keep the same in force, Agent, if Agent so elects, may obtain such insurance and pay the premium therefor on behalf of such Borrower, which payments shall be charged to Borrowers' Account and constitute part of the obligations.

6.7 Execution of Supplemental Instruments. Execute and deliver to Agent from time to time, upon demand, such supplemental agreements, statements, assignments and transfers, or instructions or documents relating to the Collateral, and such other instruments as Agent may request, in order that the full intent of this Agreement may be carried into effect.

6.8 Payment of Indebtedness and Leasehold Obligations. Pay, discharge or otherwise satisfy (i) at or before maturity (subject, where applicable, to specified grace periods) all its Indebtedness, except when the failure to do so could not reasonably be expected to have a Material Adverse Effect or when the amount or validity thereof is currently being Properly Contested, subject at all times to any applicable subordination arrangement in favor of Lenders and (ii) when due its rental obligations under all leases under which it is a tenant, and shall otherwise comply, in all material respects, with all other terms of such leases and keep them in full force and effect.

6.9 Environmental Matters.

(a) Ensure that the Real Property and all operations and businesses conducted thereon are in compliance and remain in compliance with all Environmental Laws and it shall manage any and all Hazardous Materials on any Real Property in compliance with Environmental Laws.

(b) Establish and maintain an environmental management and compliance system to assure and monitor continued compliance with all applicable Environmental Laws which system shall include periodic environmental compliance audits to be conducted by knowledgeable environmental professionals. All potential violations and violations of Environmental Laws shall be reviewed with legal counsel to determine any required reporting to applicable Governmental Bodies and any required corrective actions to address such potential violations or violations.

(c) Respond promptly to any Hazardous Discharge or Environmental Complaint and take all necessary action in order to safeguard the health of any Person and to avoid subjecting the Collateral or Real Property to any Lien. If any Borrower shall fail to respond promptly to any Hazardous Discharge or Environmental Complaint or any Borrower shall fail to comply with any of the requirements of any Environmental Laws, Agent on behalf of Lenders may, but without the obligation to do so, for the sole purpose of protecting Agent's interest in the Collateral: (i) give such notices or (ii) enter onto the Real Property (or authorize third parties to enter onto the Real Property) and take such actions as Agent (or such third parties as directed by Agent) deem reasonably necessary or advisable, to remediate, remove, mitigate or otherwise manage with any such Hazardous Discharge or Environmental Complaint. All reasonable costs and expenses incurred by Agent and Lenders (or such third parties) in the exercise of any such rights, including any sums paid in connection with any judicial or administrative investigation or proceedings, fines and penalties, together with interest thereon from the date expended at the Default Rate for Revolving Advances shall be paid upon demand by Borrowers, and until paid shall be added to and become a part of the Obligations secured by the Liens created by the terms of this Agreement or any other agreement between Agent, any Lender and any Borrower.

(d) Promptly upon the written request of Agent from time to time, Borrowers shall provide Agent, at Borrowers' expense, with an environmental site assessment or environmental compliance audit report prepared by an environmental engineering firm acceptable in the reasonable opinion of Agent, to assess with a reasonable degree of certainty the existence of a Hazardous Discharge and the potential costs in connection with abatement, remediation and removal of any Hazardous Materials found on, under, at or within the Real Property. Any report or investigation of such Hazardous Discharge proposed and acceptable to the responsible Governmental Body shall be acceptable to Agent. If such estimates, individually or in the aggregate, exceed \$100,000, Agent shall have the right to require Borrowers to post a bond, letter of credit or other security reasonably satisfactory to Agent to secure payment of these costs and expenses.

6.10 Standards of Financial Statements. Cause all financial statements referred to in Sections 9.7, 9.8, 9.9, 9.10, 9.11, 9.12 and 9.13 as to which GAAP is applicable to be complete and correct in all material respects (subject, in the case of interim financial statements, to normal year-end audit adjustments) and to be prepared in reasonable detail and in accordance with GAAP applied consistently throughout the periods reflected therein (except as disclosed therein and agreed to by such reporting accountants or officer, as applicable).

6.11 Federal Securities Laws. Promptly notify Agent in writing if any Loan Party or any of its Subsidiaries (i) is required to file periodic reports under the Exchange Act, (ii) registers

any securities under the Exchange Act or (iii) files a registration statement under the Securities Act.

6.12 Hedging Policy. Borrowers shall comply at all times with the terms of the Hedging Policy.

6.13 Delivery of Receivable Sale Documents. Prior to the sale of any Receivable expressly permitted pursuant to the terms of Section 7.1(b), the Loan Parties shall deliver a true and complete copy of the documents, by which such sale to the applicable Local Distribution Company is to be consummated, including a executed purchase agreement or similar document and any UCC Financing Statement permitted to be filed pursuant to Section 7.2. Such documents shall in form and substance satisfactory to Agent and shall not be modified or amended without the prior written consent of Agent.

6.14 Annual Clean-Down; Undrawn Availability.

(a) During each period of April 1 to May 31 (the "Clean Down Period"), for thirty (30) consecutive Business Days during this period, Borrowers must cause (i) the average balance of the Revolving Advances to be \$0 and (ii) the average Undrawn Availability for the Borrowers for each of the Business Days of such period must be greater than or equal to \$10,000,000. During the Clean Down Period, the Borrowers may not request Revolving Advances in excess of \$5,000,000, even if the Borrowers have Undrawn Availability in excess of \$5,000,000.

(b) As of the end of the calendar month ending January 31, 2017, the average Undrawn Availability for the Borrowers for each of the Business Days of such calendar month, must be greater than or equal to \$10,000,000.

(c) As of the end of the calendar month ending February 28, 2017, the average Undrawn Availability for the Borrowers for each of the Business Days of such calendar month, must be greater than or equal to \$17,000,000.

(d) As of the end of the calendar month ending March 31, 2017, the average Undrawn Availability for the Borrowers for each of the Business Days of such calendar month, must be greater than or equal to \$16,000,000.

6.15 Compliance with Laws. Comply with all Applicable Laws with respect to the Collateral or any part thereof or to the operation of such Borrower's business the non-compliance with which could reasonably be expected to have a Material Adverse Effect (except to the extent any separate provision of this Agreement shall expressly require compliance with any particular Applicable Law(s) pursuant to another standard).

6.16 Books and Records. Keep proper books of record and account in which full, true and correct entries will be made of all dealings or transactions of or in relation to its business and affairs (including without limitation accruals for taxes, assessments, Charges, levies and claims, allowances against doubtful Receivables and accruals for depreciation, obsolescence or amortization of assets), all in accordance with, or as required by, GAAP consistently applied in

the opinion of such independent public accountant as shall then be regularly engaged by Borrowers.

6.17 Payment of Taxes. Pay, when due, all taxes, assessments and other Charges lawfully levied or assessed upon such Borrower or any of the Collateral, including real and personal property taxes, assessments and charges and all franchise, income, employment, social security benefits, withholding, and sales taxes. If any tax by any Governmental Body is or may be imposed on or as a result of any transaction between any Borrower and Agent or any Lender which Agent or any Lender may be required to withhold or pay or if any taxes, assessments, or other Charges remain unpaid after the date fixed for their payment, or if any claim shall be made which, in Agent's or any Lender's opinion, may possibly create a valid Lien on the Collateral, Agent may without notice to Borrowers pay the taxes, assessments or other Charges and each Borrowers hereby indemnify and hold Agent and each Lender harmless in respect thereof. Agent will not pay any taxes, assessments or Charges to the extent that any applicable Borrower has Properly Contested those taxes, assessments or Charges. The amount of any payment by Agent under this Section 6.17 shall be charged to Borrowers' Account as a Revolving Advance maintained as a Domestic Rate Loan and added to the Obligations and, until Borrowers shall furnish Agent with an indemnity therefor (or supply Agent with evidence satisfactory to Agent that due provision for the payment thereof has been made), Agent may hold without interest any balance standing to Borrowers' credit and Agent shall retain its security interest in and Lien on any and all Collateral held by Agent.

6.18 Membership/Partnership Interests. Designate and shall cause all of their Subsidiaries to designate (a) their limited liability company membership interests or partnership interests as the case may be, as securities as contemplated by the definition of "security" in Section 8-102(15) and Section 8-103 of Article 8 of the Uniform Commercial Code, and (b) certificate such limited liability company membership interests and partnership interests, as applicable.

6.19 Keepwell. If it is a Qualified ECP Loan Party, then jointly and severally, together with each other Qualified ECP Loan Party, hereby absolutely unconditionally and irrevocably (a) guarantees the prompt payment and performance of all Swap Obligations owing by each Non-Qualifying Party (it being understood and agreed that this guarantee is a guaranty of payment and not of collection), and (b) undertakes to provide such funds or other support as may be needed from time to time by any Non-Qualifying Party to honor all of such Non-Qualifying Party's obligations under this Agreement or any Other Document in respect of Swap Obligations (provided, however, that each Qualified ECP Loan Party shall only be liable under this Section 6.19 for the maximum amount of such liability that can be hereby incurred without rendering its obligations under this Section 6.19, or otherwise under this Agreement or any Other Document, voidable under applicable law, including applicable law relating to fraudulent conveyance or fraudulent transfer, and not for any greater amount). The obligations of each Qualified ECP Loan Party under this Section 6.19 shall remain in full force and effect until payment in full of the Obligations and termination of this Agreement and the Other Documents. Each Qualified ECP Loan Party intends that this Section 6.19 constitute, and this Section 6.19 shall be deemed to constitute, a guarantee of the obligations of, and a "keepwell, support, or other agreement" for the benefit of each other Borrower and Guarantor for all purposes of Section 1a(18)(A)(v)(II) of the CEA.

6.20 Unsecured Indebtedness. If at any time the aggregate amount of unsecured Indebtedness available (whether such Indebtedness is drawn or undrawn) to the Borrower from producers or suppliers falls below \$25,000,000, the Borrowers shall immediately notify Agent and the Lenders.

6.21 Appraisal. Within sixty (60) days of the Closing Date (or such longer time as may be agreed by Agent in its sole discretion), the Borrowers shall deliver to Agent, in form and substance satisfactory to Agent, an appraisal for the value of the Borrower's business, which appraisal shall include an asset sale of the customer listing.

6.22 Tax Refund. Promptly upon receipt by (y) a Loan Party or (z) a shareholder or equityholder of a Loan Party (including, without limitation, Richard A. Curnutte, Sr.) of a Tax Refund, cause such Tax Refund proceeds to be deposited into either a Blocked Account or a Depository Account established at Agent for the deposit of such proceeds.

VII. NEGATIVE COVENANTS.

No Loan Party shall, until satisfaction in full of the Obligations and termination of this Agreement:

7.1 Merger, Consolidation, Acquisition and Sale of Assets.

(a) Enter into any merger, consolidation or other reorganization with or into any other Person or acquire all or a substantial portion of the assets or Equity Interests of any Person or permit any other Person to consolidate with or merge with it.

(b) Sell, lease, transfer or otherwise dispose of any of its properties or assets, except dispositions of Inventory to the extent expressly permitted by Section 4.3; provided, however, that a Loan Party may sell a Receivable to the applicable Local Distribution Company which participated in the delivery of Gas to such Loan Party's Customers which gave rise to such Receivable, but only to the extent that the applicable Local Distribution Company makes a cash payment for 100% of the value of such Receivable (with the exception for Specified Sold Customer Receivables, which shall be no less than the greater of (y) 97% or (z) the percentage specified in the applicable Receivables Purchase Agreement, of the value of such Receivable) directly into the Cash Concentration Account on the same day as the sale thereof is consummated and the transfer occurs or, in the case of Specified LDC Receivables, by the applicable Specified LDC Receivable Payment Deadline.

7.2 Creation of Liens. Create or suffer to exist any Lien or transfer upon or against any of its property or assets now owned or hereafter acquired, except (i) Permitted Encumbrances, and (ii) security interests necessary to effect the transfer of any Receivable expressly permitted pursuant to the terms of Section 7.1(b) so long as such security interest only relates to sales of such Receivable and such security interest does not secure any obligation or other liability of the Loan Parties owing to any Local Distribution Company or any other Person.

7.3 Guarantees. Become liable upon the obligations or liabilities of any Person by assumption, endorsement or guaranty thereof or otherwise (other than to Lenders or Issuer)

except (a) as disclosed on Schedule 7.3, and (b) the endorsement of checks in the Ordinary Course of Business.

7.4 Investments. Purchase or acquire obligations or Equity Interests of, or any other interest in, any Person, other than Permitted Investments.

7.5 Loans. Make advances, loans or extensions of credit to any Person, including any Parent, Subsidiary or Affiliate except with respect to the extension of commercial trade credit in connection with the sale of Inventory in the Ordinary Course of Business.

7.6 Capital Expenditures. Contract for, purchase or make any expenditure or commitments for Capital Expenditures in any fiscal year in an aggregate amount for all Loan Parties in excess of \$1,000,000.

7.7 Dividends. Declare, pay or make any dividend or distribution on any shares of the common stock or preferred stock of any Loan Party (other than dividends or distributions payable in its stock, or split-ups or reclassifications of its stock) or apply any of its funds, property or assets to the purchase, redemption or other retirement of any common or preferred stock, or of any options to purchase or acquire any such shares of common or preferred stock of any Loan Party; provided, however, that with respect to any Loan Party, distributions may be made by any such Loan Party which has elected to be taxed in accordance with Subchapter S and any comparable state tax laws to its respective shareholders in an amount necessary for the payment of the federal and state income tax obligations on account of the attribution of each such Loan Party's income to such shareholders by reason of such Loan Party being a Subchapter S corporation in each case determined by reference to the shareholder who has the highest combined marginal rate for income tax purposes ("Income Tax Distributions"); provided further that Borrowers shall cause any excess distribution to be returned to the applicable Borrower.

7.8 Indebtedness. Create, incur, assume or suffer to exist any Indebtedness other than Permitted Indebtedness.

7.9 Nature of Business. Substantially change the nature of the business in which it is presently engaged, nor except as specifically permitted hereby purchase or invest, directly or indirectly, in any assets or property other than in the Ordinary Course of Business for assets or property which are useful in, necessary for and are to be used in its business as presently conducted.

7.10 Transactions with Affiliates. Directly or indirectly, purchase, acquire or lease any property from, or sell, transfer or lease any property to, or otherwise enter into any transaction or deal with, any Affiliate, except for (a) transactions among Loan Parties which are not expressly prohibited by the terms of this Agreement and which are in the Ordinary Course of Business, (b) payment by Loan Parties of dividends and distributions permitted under Section 7.7 hereof, and (c) transactions disclosed to Agent in writing, which are in the Ordinary Course of Business, on an arm's-length basis on terms and conditions no less favorable than terms and conditions which would have been obtainable from a Person other than an Affiliate.

7.11 Leases. Without the prior written consent of Agent (which consent shall not be unreasonably withheld), enter as lessee into any lease arrangement for real or personal property

(unless capitalized and permitted under Section 7.6 hereof) if after giving effect thereto, aggregate annual rental payments for all leased property would exceed \$300,000 in any one fiscal year in the aggregate for all Loan Parties.

7.12 Subsidiaries.

(a) Form any Subsidiary unless such Subsidiary (i) is not a Foreign Subsidiary, (ii) at Agent's discretion, (x) expressly joins in this Agreement as a borrower and becomes jointly and severally liable for the obligations of Borrowers hereunder, under the Revolving Credit Notes, and under any other agreement between any Borrower and Lenders, or (y) becomes a Guarantor with respect to the Obligations and executes a Guarantor Security Agreement in favor of Agent, (iii) Agent and Lenders shall have received all documents, including without limitation, legal opinions and appraisals it may reasonably require to establish compliance with each of the foregoing conditions in connection therewith and (iv) such Subsidiary grants first (1st) priority perfected Liens in its assets to Agent for the benefit of Issuer and Lenders; provided, however, to the extent such Subsidiary becomes a Borrower, none of such assets which become Collateral shall be included in the Formula Amount in accordance with the terms of this Agreement until such time as Agent makes such determination in its sole discretion; or

(b) Enter into any partnership, joint venture or similar arrangement.

7.13 Fiscal Year and Accounting Changes. Change its fiscal year or make any change (i) in accounting treatment and reporting practices except as required by GAAP or (ii) in tax reporting treatment except as required by law; provided that Agent and the Lenders consent to Borrowers' change to a fiscal year ending June 30 within thirty (30) days of the Closing Date.

7.14 Pledge of Credit. Now or hereafter pledge Agent's or any Lender's credit on any purchases, commitments or contracts or for any purpose whatsoever or use any portion of any Advance in or for any business other than such Loan Party's business operations as conducted on the Closing Date.

7.15 Amendment of Organizational Documents. (i) Change its legal name, (ii) change its form of legal entity (e.g., converting from a corporation to a limited liability company or vice versa), (iii) change its jurisdiction of organization or become (or attempt or purport to become) organized in more than one jurisdiction, or (iv) otherwise amend, modify or waive any term or material provision of its Organizational Documents unless required by law, in any such case without (x) giving at least thirty (30) days prior written notice of such intended change to Agent and Lenders, (y) having received from Agent confirmation that Agent has taken all steps necessary for Agent to continue the perfection of and protect the enforceability and priority of its Liens in the Collateral belonging to such Borrower and in the Equity Interests of such Borrower and (z) in any case under clause (iv), having received the prior written consent of Agent and Required Lenders to such amendment, modification or waiver.

7.16 Compliance with ERISA. (i) (x) Maintain, or permit any member of the Controlled Group to maintain, or (y) become obligated to contribute, or permit any member of the Controlled Group to become obligated to contribute, to any Plan, other than those Plans

disclosed on Schedule 5.8(d) or any other Plan for which Agent has provided its prior written consent, (ii) engage, or permit any member of the Controlled Group to engage, in any non-exempt "prohibited transaction," as that term is defined in section 406 of ERISA and Section 4975 of the Code, (iii) incur, or permit any member of the Controlled Group to incur, any "accumulated funding deficiency," as that term is defined in Section 302 of ERISA or Section 412 of the Code, (iv) terminate, or permit any member of the Controlled Group to terminate, any Plan where such event could result in any liability of any Loan Party or any member of the Controlled Group or the imposition of a lien on the property of any Loan Party or any member of the Controlled Group pursuant to Section 4068 of ERISA, (v) assume, or permit any member of the Controlled Group to assume, any obligation to contribute to any Multiemployer Plan not disclosed on Schedule 5.8(d), (vi) incur, or permit any member of the Controlled Group to incur, any withdrawal liability to any Multiemployer Plan; (vii) fail promptly to notify Agent of the occurrence of any Termination Event, (viii) fail to comply, or permit a member of the Controlled Group to fail to comply, with the requirements of ERISA or the Code or other Applicable Laws in respect of any Plan, (ix) fail to meet, or permit any member of the Controlled Group to fail to meet, or permit any Plan to fail to meet all minimum funding requirements under ERISA and the Code, without regard to any waivers or variances, or postpone or delay or allow any member of the Controlled Group to postpone or delay any funding requirement with respect of any Plan, or (x) cause, or permit any member of the Controlled Group to cause, a representation or warranty in Section 5.8(d) to cease to be true and correct.

7.17 Prepayment of Indebtedness. At any time, directly or indirectly, prepay any Indebtedness (other than to Lenders), or repurchase, redeem, retire or otherwise acquire any Indebtedness of any Loan Party.

7.18 Anti-Terrorism Laws. No Loan Party shall, until satisfaction in full of the Obligations and termination of this Agreement, nor shall it permit any Affiliate or agent to:

(a) Conduct any business or engage in any transaction or dealing with any Blocked Person, including the making or receiving any contribution of funds, goods or services to or for the benefit of any Blocked Person.

(b) Deal in, or otherwise engage in any transaction relating to, any property or interests in property blocked pursuant to the Executive Order No. 13224.

(c) Engage in or conspire to engage in any transaction that evades or avoids, or has the purpose of evading or avoiding, or attempts to violate, any of the prohibitions set forth in the Executive Order No. 13224, the USA PATRIOT Act or any other Anti-Terrorism Law. Loan Party shall deliver to Lenders any certification or other evidence requested from time to time by any Lender in its sole discretion, confirming Loan Party's compliance with this Section.

7.19 Tax Refund. Permit a Tax Refund to be reimbursed, distributed, returned or otherwise refunded to any Person (including Richard A. Curnutte, Sr.) other than a Loan Party, unless, promptly upon receipt thereof, such Tax Refund is reimbursed, distributed, returned or otherwise refunded to a Loan Party in full.

7.20 Trading with the Enemy Act. Engage in any business or activity in violation of the Trading with the Enemy Act.

7.21 Other Agreements. Enter into any material amendment, waiver or modification of any Aggregation\Pooling Service Agreements to which a Loan Party is a party, any Receivables Purchase Agreement or the Hedging Policy.

7.22 Bank of America Cash Collateral Account. Maintain any funds in account number 65550-619389 at Bank of America, N.A. other than amounts deposited as cash collateral to secure Borrowers' obligations with respect to Commodity Hedges constituting Permitted Indebtedness under clause (f) thereof; provided that the balance of such account shall not at any time exceed Two Million Dollars (\$2,000,000).

7.23 Borrowing Base Reconciliation. Permit the monthly reconciliation (as provided in Section 9.2) of the Formula Amount calculated in the Borrowing Base Certificate compared to the Formula Amount calculated pursuant to the general ledger or month end reports (the "Reconciled Amount") (a) to exceed the greater of (x) \$1,250,000 and (y) 105.0% of the Reconciled Amount or (b) to result in an Undrawn Availability that is less than \$750,000.

VIII. CONDITIONS PRECEDENT.

8.1 Conditions to Initial Advances. The agreement of Lenders to make the initial Advances requested to be made on the Closing Date is subject to the satisfaction, or waiver by Agent, immediately prior to or concurrently with the making of such Advances, of the following conditions precedent:

(a) Note. Agent shall have received the Revolving Credit Notes duly executed and delivered by an authorized officer of each Borrower that were requested under Section 2.1(a) hereof;

(b) Other Documents. Agent shall have received each of the executed Other Documents, as applicable;

(c) Filings, Registrations and Recordings. Each document (including any Uniform Commercial Code financing statement) required by this Agreement, any related agreement or under law or reasonably requested by Agent to be filed, registered or recorded in order to create, in favor of Agent, a perfected security interest in or lien upon the Collateral shall have been properly filed, registered or recorded in each jurisdiction in which the filing, registration or recordation thereof is so required or requested, and Agent shall have received an acknowledgment copy, or other evidence satisfactory to it, of each such filing, registration or recordation and satisfactory evidence of the payment of any necessary fee, tax or expense relating thereto;

(d) Reserved.

(e) Collateral Examination. Agent shall have completed Collateral examinations and received appraisals, the results of which shall be satisfactory in form and

substance to Agent, of the Receivables, Inventory, General Intangibles, and equipment of each Borrower and all books and records in connection therewith;

(f) Secretary's Certificates, Authorizing Resolutions and Good Standings of Borrowers. Agent shall have received a certificate of the Secretary or Assistant Secretary (or other equivalent officer, partner or manager) of each Borrower in form and substance satisfactory to Agent dated as of the Closing Date which shall certify (i) copies of resolutions in form and substance reasonably satisfactory to Agent, of the board of directors (or other equivalent governing body, member or partner) of such Borrower authorizing (x) the execution, delivery and performance of this Agreement, the Revolving Credit Notes and each Other Document to which such Borrower is a party (including authorization of the incurrence of indebtedness, borrowing of Revolving Advances and requesting of Letters of Credit on a joint and several basis with all Borrowers as provided for herein), and (y) the granting by such Borrower of the security interests in and liens upon the Collateral to secure all of the joint and several Obligations of Borrowers (and such certificate shall state that such resolutions have not been amended, modified, revoked or rescinded as of the date of such certificate), (ii) the incumbency and signature of the officers of such Borrower authorized to execute this Agreement and the Other Documents, (iii) copies of the Organizational Documents of such Borrower as in effect on such date, complete with all amendments thereto, and (iv) the good standing (or equivalent status) of such Borrower in its jurisdiction of organization and each applicable jurisdiction where the conduct of such Borrower's business activities or the ownership of its properties necessitates qualification, as evidenced by good standing certificate(s) (or the equivalent thereof issued by any applicable jurisdiction) dated not more than 20 days prior to the Closing Date, issued by the Secretary of State or other appropriate official of each such jurisdiction;

(g) Secretary's Certificates, Authorizing Resolutions and Good Standings of Guarantors. Agent shall have received a certificate of the Secretary or Assistant Secretary (or other equivalent officer, partner or manager) of each Guarantor in form and substance satisfactory to Agent dated as of the Closing Date which shall certify (i) copies of resolutions in form and substance reasonably satisfactory to Agent, of the board of directors (or other equivalent governing body, member or partner) of each Guarantor authorizing (x) the execution, delivery and performance of such Guarantor's Guaranty and each Other Loan Document to which such Guarantor is a party and (y) the granting by such Guarantor of the security interests in and liens upon the Collateral to secure its obligations under its Guaranty (and such certificate shall state that such resolutions have not been amended, modified, revoked or rescinded as of the date of such certificate), (ii) the incumbency and signature of the officers of such Guarantor authorized to execute this Agreement and the Other Documents, (iii) copies of the Organizational Documents of such Guarantor as in effect on such date, complete with all amendments thereto, and (iv) the good standing (or equivalent status) of such Guarantor in its jurisdiction of organization and each applicable jurisdiction where the conduct of such Guarantor's business activities or the ownership of its properties necessitates qualification, as evidenced by good standing certificate(s) (or the equivalent thereof issued by any applicable jurisdiction) dated not more than 20 days prior to the Closing Date, issued by the Secretary of State or other appropriate official of each such jurisdiction;

(h) Legal Opinion. Agent shall have received the executed legal opinion of Farthing & Stewart LLP in form and substance satisfactory to Agent which shall cover such

matters incident to the transactions contemplated by this Agreement, the Revolving Credit Notes, the Other Documents, the Guaranty and related agreements as Agent may reasonably require and each Borrower hereby authorizes and directs such counsel to deliver such opinions to Agent and Lenders;

(i) No Litigation. (i) No litigation, investigation or proceeding before or by any arbitrator or Governmental Body shall be continuing or threatened against any Loan Party against the officers or directors of any Loan Party (A) in connection with this Agreement, the Other Documents or any of the transactions contemplated thereby and which, in the reasonable opinion of Agent, is deemed material or (B) which could, in the reasonable opinion of Agent, have a Material Adverse Effect; and (ii) no injunction, writ, restraining order or other order of any nature materially adverse to any Loan Party or the conduct of its business or inconsistent with the due consummation of the transactions hereunder or contemplated hereby shall have been issued by any Governmental Body;

(j) Financial Condition Certificates. Agent shall have received an executed Financial Condition Certificate in the form of Exhibit 8.1(j).

(k) Fees. Agent shall have received all fees payable to Agent and Lenders on or prior to the Closing Date hereunder, including pursuant to Article III hereof and the Fee Letter;

(l) Pro Forma Financial Statements. Agent shall have received a copy of the Pro Forma Financial Statements which shall be satisfactory in all respects to Agent;

(m) Insurance. Agent shall have received in form and substance satisfactory to Agent, (i) evidence that adequate insurance, including without limitation, property, casualty and liability insurance, required to be maintained under this Agreement is in full force and effect, (ii) insurance certificates issued by Borrowers' insurance broker containing such information regarding Borrowers' casualty and liability insurance policies as Agent shall request and naming Agent as an additional insured, lenders loss payee and/or mortgagee, as applicable, and (iii) loss payable endorsements issued by Borrowers' insurer naming Agent as lenders loss payee and mortgagee, as applicable;

(n) Payment Instructions. Agent shall have received written instructions from Borrowing Agent directing the application of proceeds of the initial Advances made pursuant to this Agreement;

(o) Blocked Accounts. Agent shall have received duly executed agreements establishing the Blocked Accounts or Depository Accounts with financial institutions acceptable to Agent for the collection or servicing of the Receivables and proceeds of the Collateral and Agent shall have entered into control agreements with the applicable financial institutions in form and substance satisfactory to Agent with respect to such Blocked Accounts;

(p) Consents. Agent shall have received any and all Consents necessary to permit the effectuation of the transactions contemplated by this Agreement and the Other Documents; and, Agent shall have received such Consents and waivers of such third parties as might assert claims with respect to the Collateral, as Agent and its counsel shall deem necessary;

(q) No Adverse Material Change. (i) Since December 31, 2015, there shall not have occurred any event, condition or state of facts which could reasonably be expected to have a Material Adverse Effect and (ii) no representations made or information supplied to Agent or Lenders shall have been proven to be inaccurate or misleading in any material respect;

(r) Lien Waiver Agreements. Agent shall have received Lien Waiver Agreements satisfactory to Agent with respect to all locations or places at which at which Inventory and books and records are located;

(s) Contract Review. Agent shall have reviewed all Material Contracts of Loan Parties including leases, union contracts, labor contracts, vendor supply contracts, license agreements and distributorship agreements and such contracts and agreements shall be satisfactory in all respects to Agent, including, without limitation, all updated purchase agreements from Local Distribution Companies;

(t) Closing Certificate. Agent shall have received a closing certificate signed by the Chief Financial Officer of each Loan Party dated as of the date hereof, stating that (i) all representations and warranties set forth in this Agreement and the Other Documents are true and correct on and as of such date, (ii) Loan Parties are on such date in compliance with all the terms and provisions set forth in this Agreement and the Other Documents and (iii) on such date no Default or Event of Default has occurred or is continuing;

(u) Borrowing Base. Agent shall have received evidence from Borrowers that the aggregate amount of Eligible Receivables and Eligible Inventory is sufficient in value and amount to support Advances in the amount requested by Borrowers on the Closing Date and those outstanding on the Closing Date;

(v) Undrawn Availability. After giving effect to the initial Advances hereunder, Borrowers shall have Undrawn Availability of at least \$12,500,000;

(w) Compliance with Laws. Agent shall be reasonably satisfied that each Loan Party is in compliance with all pertinent federal, state, local or territorial regulations, including those with respect to the Federal Occupational Safety and Health Act, the Environmental Protection Act, ERISA and the Trading with the Enemy Act; and

(x) Hedging Policy. Agent shall have received a copy of the Hedging Policy which shall be in form and substance satisfactory in all respects to Agent, in its sole discretion.

(y) Other. All corporate and other proceedings, and all documents, instruments and other legal matters in connection with the Transactions shall be satisfactory in form and substance to Agent and its counsel.

8.2 Conditions to Each Advance. The agreement of Lenders to make any Advance requested to be made on any date (including the initial Advance), is subject to the satisfaction of the following conditions precedent as of the date such Advance is made:

(a) Representations and Warranties. Each of the representations and warranties made by any Loan Party in or pursuant to this Agreement, the Other Documents and

any related agreements to which it is a party, and each of the representations and warranties contained in any certificate, document or financial or other statement furnished at any time under or in connection with this Agreement, the Other Documents or any related agreement shall be true and correct in all material respects (or, if any such representation, warranty or statement is by its terms qualified by concepts of materiality or reference to Material Adverse Effect, such representation, warranty or statement, in any respect) on and as of such date as if made on and as of such date (except to the extent any such representation or warranty expressly relates only to any earlier and/or specified date);

(b) No Default. No Event of Default or Default shall have occurred and be continuing on such date, or would exist after giving effect to the Advances requested to be made, on such date; provided, however that Agent, in its sole discretion, may continue to make Advances notwithstanding the existence of an Event of Default or Default and that any Advances so made shall not be deemed a waiver of any such Event of Default or Default; and

(c) Maximum Advances. In the case of any type of Advance requested to be made, after giving effect thereto, the aggregate amount of such type of Advance shall not exceed the maximum amount of such type of Advance permitted under this Agreement.

Each request for an Advance by any Borrower hereunder shall constitute a representation and warranty by each Borrower as of the date of such Advance that the conditions contained in this subsection shall have been satisfied.

IX. INFORMATION AS TO LOAN PARTIES.

Each Loan Party shall, or (except with respect to Section 9.12) shall cause Borrowing Agent on its behalf to, until satisfaction in full of the Obligations and the termination of this Agreement:

9.1 Disclosure of Material Matters. Immediately upon learning thereof, report to Agent all matters materially affecting the value, enforceability or collectability of any portion of the Collateral, including any Loan Party's reclamation or repossession of, or the return to any Loan Party of, a material amount of goods or claims or disputes asserted by any Customer or other obligor.

9.2 Schedules. Deliver to Agent and Lenders (i) on or before the sixtieth (60th) day following the end of each month (a) accounts receivable agings inclusive of reconciliations to the general ledger, (b) accounts payable schedules inclusive of reconciliations to the general ledger, (c) a Borrowing Base Certificate in form and substance satisfactory to Agent (which shall be calculated as of the last day of the prior month and which shall not be binding upon Agent or restrictive of Agent's rights under this Agreement) and (ii) for each month, on or before the sixtieth (60th) day after the end of such month, Inventory reports and a reconciliation of such month's Unbilled Eligible Receivables. In addition, Borrowing Agent shall deliver to Agent on or before the first (1st) day of each Week as and for the prior Week an interim Borrowing Base Certificate (which shall be calculated as of the last day of the prior Week and which shall not be binding upon Agent or restrictive of Agent's rights under this Agreement) reflecting all activity (including sales, collections, credits) impacting the accounts of Borrowers for all Business Days

of the immediately preceding Week. The amount derived as being excluded from Eligible Receivables used on such interim Borrowing Base Certificate shall be the amount that is calculated and updated monthly pursuant to this Section 9.2 and which is satisfactory to Agent. The amount of Eligible Inventory to be included on such interim Borrowing Base Certificate shall be calculated and updated monthly pursuant to this Section 9.2 and which is satisfactory to Agent. In addition, each Borrower will deliver to Agent at such intervals as Agent may require: (i) confirmatory assignment schedules, (ii) copies of Customer's invoices, (iii) evidence of shipment or delivery, and (iv) such further schedules, documents and/or information regarding the Collateral as Agent may require including trial balances and test verifications. Agent shall have the right to confirm and verify all Receivables by any manner and through any medium it considers advisable and do whatever it may deem reasonably necessary to protect its interests hereunder. The items to be provided under this Section are to be in form satisfactory to Agent and executed by Borrowers and delivered to Agent from time to time solely for Agent's convenience in maintaining records of the Collateral, and Borrowers' failure to deliver any of such items to Agent shall not affect, terminate, modify or otherwise limit Agent's Lien with respect to the Collateral.

9.3 Environmental Reports.

(a) Furnish Agent, concurrently with the delivery of the financial statements referred to in Sections 9.7 and 9.8, with a Compliance Certificate signed by the President, Chief Financial Officer or Director of Banking of Borrowing Agent stating, to the best of his knowledge, that each Loan Party is in compliance in all material respects with all federal, state and local Environmental Laws. To the extent any Loan Party is not in compliance with the foregoing laws, the certificate shall set forth with specificity all areas of non-compliance and the proposed action such Loan Party will implement in order to achieve full compliance.

(b) In the event any Borrower obtains, gives or receives notice of any Release or threat of Release of a reportable quantity of any Hazardous Materials at the Real Property (any such event being hereinafter referred to as a "Hazardous Discharge") or receives any notice of violation, request for information or notification that it is potentially responsible for investigation or cleanup of environmental conditions at the Real Property, demand letter or complaint, order, citation, or other written notice with regard to any Hazardous Discharge or violation of Environmental Laws affecting the Real Property or any Borrower's interest therein or the operations or the business (any of the foregoing is referred to herein as an "Environmental Complaint") from any Person, including any Governmental Body, then Borrowing Agent shall, within five (5) Business Days, give written notice of same to Agent detailing facts and circumstances of which any Borrower is aware giving rise to the Hazardous Discharge or Environmental Complaint. Such information is to be provided to allow Agent to protect its security interest in and Lien on the Collateral and is not intended to create nor shall it create any obligation upon Agent or any Lender with respect thereto.

(c) Borrowing Agent shall promptly forward to Agent copies of any request for information, notification of potential liability, demand letter relating to potential responsibility with respect to the investigation or cleanup of Hazardous Materials at any other site owned, operated or used by any Borrower to manage of Hazardous Materials and shall continue to forward copies of correspondence between any Borrower and the Governmental

Body regarding such claims to Agent until the claim is settled. Borrowing Agent shall promptly forward to Agent copies of all documents and reports concerning a Hazardous Discharge or Environmental Complaint at the Real Property, operations or business that any Borrower is required to file under any Environmental Laws. Such information is to be provided solely to allow Agent to protect Agent's security interest in and Lien on the Collateral.

9.4 Litigation. Promptly notify Agent in writing of any claim, litigation, suit or administrative proceeding affecting any Loan Party, whether or not the claim is covered by insurance, and of any litigation, suit or administrative proceeding, which in any such case affects the Collateral or which could reasonably be expected to have a Material Adverse Effect.

9.5 Material Occurrences. Promptly notify Agent in writing upon the occurrence of (a) any Event of Default or Default; (b) any event, development or circumstance whereby any financial statements or other reports furnished to Agent fail in any material respect to present fairly, in accordance with GAAP consistently applied, the financial condition or operating results of any Loan Party as of the date of such statements; (c) any accumulated retirement plan funding deficiency which, if such deficiency continued for two plan years and was not corrected as provided in Section 4971 of the Code, could subject any Loan Party to a tax imposed by Section 4971 of the Code; (d) each and every default by any Loan Party which might result in the acceleration of the maturity of any Indebtedness, including the names and addresses of the holders of such Indebtedness with respect to which there is a default existing or with respect to which the maturity has been or could be accelerated, and the amount of such Indebtedness; and (e) any other development in the business or affairs of any Loan Party which could reasonably be expected to have a Material Adverse Effect; in each case describing the nature thereof and the action Loan Parties propose to take with respect thereto.

9.6 Government Receivables. Notify Agent immediately if any of its Receivables arise out of contracts between any Loan Party and the United States, any state, or any department, agency or instrumentality of any of them.

9.7 Annual Financial Statements. Furnish Agent and Lenders within one hundred five (105) days after the end of each fiscal year of Loan Parties, financial statements of Loan Parties on a consolidating and consolidated basis including, but not limited to, statements of income and stockholders' equity and cash flow from the beginning of the current fiscal year to the end of such fiscal year and the balance sheet as at the end of such fiscal year, all prepared in accordance with GAAP applied on a basis consistent with prior practices, and in reasonable detail and reported upon without qualification by an independent certified public accounting firm selected by Loan Parties and satisfactory to Agent (the "Accountants"). In addition, the reports shall be accompanied by a Compliance Certificate of the Loan Parties signed by each Loan Party's Chief Financial Officer which shall state that, based on an examination sufficient to permit him to make an informed statement, no Default or Event of Default exists, or, if such is not the case, specifying such Default or Event of Default, its nature, when it occurred, whether it is continuing and the steps being taken by such Loan Party with respect to such event, and such Compliance Certificate shall have appended thereto calculations which set forth compliance with the requirements or restrictions imposed by Sections 6.5, 7.6 and 7.11 hereof.

9.8 Quarterly Financial Statements. Furnish Agent and Lenders within sixty (60) days after the end of each fiscal quarter, an unaudited balance sheet of Loan Parties on a consolidated and consolidating basis and unaudited statements of income and stockholders' equity and cash flow of Loan Parties on a consolidated and consolidating basis reflecting results of operations from the beginning of the fiscal year to the end of such quarter and for such quarter, prepared on a basis consistent with prior practices and complete and correct in all material respects, subject to normal and recurring year-end adjustments that individually and in the aggregate are not material to Loan Parties' business operations and setting forth in comparative form the respective financial statements for the corresponding date and period in the previous fiscal year. In addition, the reports shall be accompanied by a Compliance Certificate of the Loan Parties signed by each Loan Party's Chief Financial Officer which shall state that, based on an examination sufficient to permit him to make an informed statement, no Default or Event of Default exists, or, if such is not the case, specifying such Default or Event of Default, its nature, when it occurred, whether it is continuing and the steps being taken by such Loan Party with respect to such event, and such Compliance Certificate shall have appended thereto calculations which set forth compliance with the requirements or restrictions imposed by Sections 6.5, 7.6 and 7.11 hereof.

9.9 Monthly Financial Statements. (a) Furnish Agent and Lenders within sixty (60) days after the end of each month, an unaudited balance sheet of Loan Parties on a consolidated and consolidating basis and unaudited statements of income and stockholders' equity and cash flow of Loan Parties on a consolidated and consolidating basis reflecting results of operations from the beginning of the fiscal year to the end of such month and for such month, prepared on a basis consistent with prior practices and complete and correct in all material respects, subject to normal and recurring year-end adjustments that individually and in the aggregate are not material to Loan Parties' business.

(b) In addition to the financial statements to be delivered pursuant to Section 9.9(a) above, furnish Agent and Lenders within sixty (60) days after the end of each month, a supplementary report reconciling the Receivable and Inventory amounts listed on the Borrowing Base Certificate to the balance sheet provided for such month.

(c) Furnish Agent and Lenders within sixty (60) days after the end of each month, a month by month projected operating budget and cash flow of Loan Parties on a consolidated and consolidating basis for the next 12 months (including an income statement for each month, a balance sheet as at the end of the last month in each fiscal quarter and projected levels of Undrawn Availability), such projections to be accompanied by a certificate signed by the President or Chief Financial Officer of each Loan Party to the effect that such projections have been prepared on the basis of sound financial planning practice consistent with past budgets and financial statements and that such officer has no reason to question the reasonableness of any material assumptions on which such projections were prepared.

(d) Furnish Agent and Lenders within thirty (30) days after the end of each month, a report, in form and substance satisfactory to Agent and Lenders, that details sales, gross profits and natural Gas volumes sold.

9.10 Other Reports. Furnish Agent as soon as available, but in any event within ten (10) days after the issuance thereof, with copies of such financial statements, reports and returns as each Loan Party shall send to its stockholders.

9.11 Additional Information. Furnish Agent and Lenders with such additional information as Agent shall reasonably request in order to enable Agent to determine whether the terms, covenants, provisions and conditions of this Agreement and the Revolving Credit Notes have been complied with by Loan Parties including, without the necessity of any request by Agent, (a) copies of all environmental audits and reviews, (b) at least thirty (30) days prior thereto, notice of any Loan Party's opening of any new office or place of business or any Loan Party's closing of any existing office or place of business, and (c) promptly upon any Loan Party's learning thereof, notice of any labor dispute to which any Loan Party may become a party, any strikes or walkouts relating to any of its plants or other facilities, and the expiration of any labor contract to which any Loan Party is a party or by which any Loan Party is bound.

9.12 Projected Operating Budget. Furnish Agent and Lenders, no later than fifteen (15) days prior to the beginning of each Borrower's fiscal years commencing with fiscal year 2016, a month by month projected operating budget and cash flow of Loan Parties on a consolidated and consolidating basis for such fiscal year (including an income statement for each month and a balance sheet as at the end of the last month in each fiscal quarter), such projections to be accompanied by a certificate signed by the President or Chief Financial Officer of each Loan Party to the effect that such projections have been prepared on the basis of sound financial planning practice consistent with past budgets and financial statements and that such officer has no reason to question the reasonableness of any material assumptions on which such projections were prepared.

9.13 Variances From Operating Budget. Furnish Agent, concurrently with the delivery of the financial statements referred to in Section 9.7 and each monthly report, a written report summarizing all material variances from budgets submitted by Loan Parties pursuant to Section 9.12 and a discussion and analysis by management with respect to such variances.

9.14 Notice of Suits, Adverse Events. Furnish Agent with prompt written notice of (i) any lapse or other termination of any Consent issued to any Loan Party by any Governmental Body or any other Person that is material to the operation of any Loan Party's business, (ii) any refusal by any Governmental Body or any other Person to renew or extend any such Consent; and (iii) copies of any periodic or special reports filed by any Loan Party with any Governmental Body or Person, if such reports indicate any material change in the business, operations, affairs or condition of any Loan Party, or if copies thereof are requested by Lender, and (iv) copies of any material notices and other communications from any Governmental Body or Person which specifically relate to any Loan Party.

9.15 ERISA Notices and Requests. Furnish Agent with immediate written notice in the event that (i) any Loan Party or any member of the Controlled Group knows or has reason to know that a Termination Event has occurred, together with a written statement describing such Termination Event and the action, if any, which such Loan Party or any member of the Controlled Group has taken, is taking, or proposes to take with respect thereto and, when known, any action taken or threatened by the Internal Revenue Service, Department of Labor or PBGC

with respect thereto, (ii) any Loan Party or any member of the Controlled Group knows or has reason to know that a prohibited transaction (as defined in Sections 406 of ERISA and 4975 of the Code) has occurred together with a written statement describing such transaction and the action which such Loan Party or any member of the Controlled Group has taken, is taking or proposes to take with respect thereto, (iii) a funding waiver request has been filed with respect to any Plan together with all communications received by any Loan Party or any member of the Controlled Group with respect to such request, (iv) any increase in the benefits of any existing Plan or the establishment of any new Plan or the commencement of contributions to any Plan to which any Loan Party or any member of the Controlled Group was not previously contributing shall occur, (v) any Loan Party or any member of the Controlled Group shall receive from the PBGC a notice of intention to terminate a Plan or to have a trustee appointed to administer a Plan, together with copies of each such notice, (vi) any Loan Party or any member of the Controlled Group shall receive any favorable or unfavorable determination letter from the Internal Revenue Service regarding the qualification of a Plan under Section 401(a) of the Code, together with copies of each such letter; (vii) any Loan Party or any member of the Controlled Group shall receive a notice regarding the imposition of withdrawal liability, together with copies of each such notice; (viii) any Loan Party or any member of the Controlled Group shall fail to make a required installment or any other required payment under Section 412 of the Code on or before the due date for such installment or payment; or (ix) any Loan Party or any member of the Controlled Group knows that (a) a Multiemployer Plan has been terminated, (b) the administrator or plan sponsor of a Multiemployer Plan intends to terminate a Multiemployer Plan, (c) the PBGC has instituted or will institute proceedings under Section 4042 of ERISA to terminate a Multiemployer Plan or (d) a Multiemployer Plan is subject to Section 432 of the Code or Section 305 of ERISA.

9.16 Personal Financial Statements. The Borrower shall cause Richard A. Curnutte, Sr. to provide to Agent an updated personal financial statement within thirty (30) days after the end of each calendar year.

9.17 Additional Documents. Execute and deliver to Agent, upon request, such documents and agreements as Agent may, from time to time, reasonably request to carry out the purposes, terms or conditions of this Agreement.

9.18 Updates to Certain Schedules. Deliver to Agent promptly as shall be required to maintain the related representations and warranties as true and correct, updates to Schedules 4.4 (Locations of equipment and Inventory), 5.9 (Intellectual Property, Source Code Escrow Agreements), 5.24 (Equity Interests), 5.25 (Commercial Tort Claims), and 5.26 (Letter-of-Credit Rights); provided, that absent the occurrence and continuance of any Event of Default, Borrowers shall only be required to provide such updates on a quarterly basis in connection with delivery of a Compliance Certificate with respect to the applicable quarter. Any such updated Schedules delivered by Borrowers to Agent in accordance with this Section 9.17 shall automatically and immediately be deemed to amend and restate the prior version of such Schedule previously delivered to Agent and attached to and made part of this Agreement.

9.19 Financial Disclosure. Each Borrower hereby irrevocably authorizes and directs all accountants and auditors employed by such Borrower at any time during the Term to exhibit and deliver to Agent and each Lender copies of any of such Borrower's financial statements, trial

balances or other accounting records of any sort in the accountant's or auditor's possession, and to disclose to Agent and each Lender any information such accountants may have concerning such Borrower's financial status and business operations. Each Borrower hereby authorizes all Governmental Bodies to furnish to Agent and each Lender copies of reports or examinations relating to such Borrower, whether made by such Borrower or otherwise; however, Agent and each Lender will attempt to obtain such information or materials directly from such Borrower prior to obtaining such information or materials from such accountants or Governmental Bodies.

9.20 Hedge Report. Borrowing Agent shall deliver to Agent and the Lenders on or before the first (1st) day of each Week as and for the prior Week a report setting forth the daily outstanding Hedge Liabilities for the Borrowers and their Consolidated Subsidiaries.

X. EVENTS OF DEFAULT.

The occurrence of any one or more of the following events shall constitute an "Event of Default":

10.1 Nonpayment. Failure by any Loan Party to pay when due (a) any principal or interest on the Obligations (including without limitation pursuant to Section 2.9), or (b) any other fee, charge, amount or liability provided for herein or in any Other Document, in each case whether at maturity, by reason of acceleration pursuant to the terms of this Agreement, by notice of intention to prepay, or by required prepayment;

10.2 Breach of Representation. Any representation or warranty made or deemed made by any Borrower or any Guarantor in this Agreement, any Other Document or any related agreement or in any certificate, document or financial or other statement furnished at any time in connection herewith or therewith shall prove to have been incorrect or misleading in any material respect (or, if any such representation, warranty or statement is by its terms qualified by concepts of materiality or reference to Material Adverse Effect, such representation, warranty or statement, in any respect) on the date when made or deemed to have been made;

10.3 Financial Information. Failure by any Loan Party to (i)(x) furnish financial information when due, or (y) when requested, or (ii) permit the inspection of its books or records or access to its premises for audits, hedge audits and appraisals in accordance with the terms hereof;

10.4 Judicial Actions. Issuance of a notice of Lien, levy, assessment, injunction or attachment against any Loan Party's Inventory or Receivables or against a material portion of any Loan Party's other property;

10.5 Noncompliance. Except as otherwise provided for in Sections 10.1, 10.3 and 10.5(ii), (i) failure or neglect of any Loan Party or any Guarantor to perform, keep or observe any term, provision, condition, covenant herein contained, or contained in any Other Document or any other agreement or arrangement, now or hereafter entered into between any Loan Party or any Guarantor, and Agent or any Lender, or (ii) failure or neglect of any Loan Party to perform, keep or observe any term, provision, condition or covenant, contained in Sections 4.6, 6.1, 6.3, 6.15 or 6.16 hereof which is not cured within thirty (30) days from the occurrence of such failure or neglect;

10.6 Judgments. Any (a) judgment or judgments, writ(s), order(s) or decree(s) for the payment of money are rendered against all Loan Parties for an aggregate amount in excess of \$500,000 and (b) (i) action shall be legally taken by any judgment creditor to levy upon assets or properties of any Loan Party to enforce any such judgment, (ii) such judgment shall remain undischarged for a period of thirty (30) consecutive days during which a stay of enforcement of such judgment, by reason of a pending appeal or otherwise, shall not be in effect, or (iii) any Liens arising by virtue of the rendition, entry or issuance of such judgment upon assets or properties of any Loan Party shall be senior to any Liens in favor of Agent on such assets or properties;

10.7 Bankruptcy. Any Loan Party or any Affiliate of any Loan Party shall (i) apply for, consent to or suffer the appointment of, or the taking of possession by, a receiver, custodian, trustee, liquidator or similar fiduciary of itself or of all or a substantial part of its property, (ii) make a general assignment for the benefit of creditors, (iii) commence a voluntary case under any state or federal bankruptcy or receivership laws (as now or hereafter in effect), (iv) be adjudicated a bankrupt or insolvent (including by entry of any order for relief in any involuntary bankruptcy or insolvency proceeding commenced against it), (v) file a petition seeking to take advantage of any other law providing for the relief of debtors, (vi) acquiesce to, or fail to have dismissed, within thirty (30) days, any petition filed against it in any involuntary case under such bankruptcy laws, or (vii) take any action for the purpose of effecting any of the foregoing;

10.8 Inability to Pay. Any Loan Party or any Guarantor shall admit in writing its inability, or be generally unable, to pay its debts as they become due or cease operations of its present business;

10.9 Material Adverse Effect. The occurrence of any event or development which could reasonably be expected to have a Material Adverse Effect;

10.10 Lien Priority. Any Lien created hereunder or provided for hereby or under any related agreement for any reason ceases to be or is not a valid and perfected Lien having a first priority interest;

10.11 Cross Default. Either (x) any specified "event of default" under any Indebtedness (other than the Obligations) of any Loan Party with a then-outstanding principal balance (or, in the case of any Indebtedness not so denominated, with a then-outstanding total obligation amount) of \$100,000 or more, or any other event or circumstance which would permit the holder of any such Indebtedness of any Loan Party to accelerate such Indebtedness (and/or the obligations of such Loan Party thereunder) prior to the scheduled maturity or termination thereof, shall occur (regardless of whether the holder of such Indebtedness shall actually accelerate, terminate or otherwise exercise any rights or remedies with respect to such Indebtedness), (y) a breach of or a default or event of default under any Aggregation/Pooling Service Agreement or any Receivables Purchase Agreement, in any case to which a Loan Party is a party, shall occur, or (z) a default of the obligations of any Loan Party under any other agreement to which it is a party shall occur which has or is reasonably likely to have a Material Adverse Effect;

10.12 Breach of Guaranty. Termination or breach of any Guaranty or Guaranty Security Agreement or similar agreement executed and delivered to Agent in connection with the

Obligations of any Loan Party, or if any Guarantor attempts to terminate, challenges the validity of, or its liability under, any such Guaranty or Guaranty Security Agreement or similar agreement;

10.13 Change of Control. Any Change of Control shall occur;

10.14 Invalidity. Any material provision of this Agreement or any Other Document shall, for any reason, cease to be valid and binding on Loan Party or any Guarantor, or any Loan Party or any Guarantor shall so claim in writing to Agent or any Lender or any Loan Party challenges the validity of or its liability under this Agreement or any Other Document;

10.15 Licenses. (i) Any Governmental Body shall (A) revoke, terminate, suspend or adversely modify any license, permit, patent trademark or tradename of any Loan Party or any Guarantor, or (B) commence proceedings to suspend, revoke, terminate or adversely modify any such license, permit, trademark, tradename or patent and such proceedings shall not be dismissed or discharged within sixty (60) days, or (C) schedule or conduct a hearing on the renewal of any license, permit, trademark, tradename or patent necessary for the continuation of any Loan Party's or any Guarantor's business and the staff of such Governmental Body issues a report recommending the termination, revocation, suspension or material, adverse modification of such license, permit, trademark, tradename or patent; (ii) any agreement which is necessary or material to the operation of any Loan Party's or any Guarantor's business shall be revoked or terminated and not replaced by a substitute acceptable to Agent, and such revocation or termination and non-replacement would reasonably be expected to have a Material Adverse Effect;

10.16 Seizures. Any portion of the Collateral shall be seized, subject to garnishment or taken by a Governmental Body, or any Loan Party or any Guarantor or the title and rights of any Loan Party or any Guarantor shall have become the subject matter of claim, litigation, suit, garnishment or other proceeding which might, in the opinion of Agent, upon final determination, result in impairment or loss of the security provided by this Agreement or the Other Documents;

10.17 Operations. The operations of any Loan Party are interrupted at any time for more than seven (7) consecutive days, which interruption would reasonably be expected to have a Material Adverse Effect;

10.18 Pension Plans. An event or condition specified in Sections 7.16 or 9.15 hereof shall occur or exist with respect to any Plan and, as a result of such event or condition, together with all other such events or conditions, any Loan Party or any member of the Controlled Group shall incur, or in the opinion of Agent be reasonably likely to incur, a liability to a Plan or the PBGC (or both) which, in the reasonable judgment of Agent, would have a Material Adverse Effect; or

10.19 Termination of Ohio Competitive Retail Natural Gas Supplier Certificate. The Ohio Competitive Retail Natural Gas Supplier Certificate granted by The Public Utilities Commission of Ohio to Volunteer Energy Services, Inc. is terminated;

10.20 Anti-Money Laundering/International Trade Law Compliance. Any representation or warranty contained in Section 16.18 is or becomes false or misleading at any time; or

10.21 Change of Management. Any Change of Management shall occur.

XI. LENDERS' RIGHTS AND REMEDIES AFTER DEFAULT.

11.1 Rights and Remedies.

(a) Upon the occurrence of (i) an Event of Default pursuant to Section 10.7 (other than Section 10.7(viii)), all Obligations shall be immediately due and payable and this Agreement and the obligation of Lenders to make Advances shall be deemed terminated; and, (ii) any of the other Events of Default and at any time thereafter (such default not having previously been cured), at the option of Required Lenders all Obligations shall be immediately due and payable and Lenders shall have the right to terminate this Agreement and to terminate the obligation of Lenders to make Advances and (iii) without limiting Section 8.2 hereof, any Default under Sections 10.7(viii) hereof, the obligation of Lenders to make Advances hereunder shall be suspended until such time as such involuntary petition shall be dismissed. Upon the occurrence of any Event of Default, Agent shall have the right to exercise any and all rights and remedies provided for herein, under the Other Documents, under the Uniform Commercial Code and at law or equity generally, including the right to foreclose the security interests granted herein and to realize upon any Collateral by any available judicial procedure and/or to take possession of and sell any or all of the Collateral with or without judicial process. Agent may enter any of any Loan Party's premises or other premises without legal process and without incurring liability to any Loan Party therefor, and Agent may thereupon, or at any time thereafter, in its discretion without notice or demand, take the Collateral and remove the same to such place as Agent may deem advisable and Agent may require Loan Parties to make the Collateral available to Agent at a convenient place. With or without having the Collateral at the time or place of sale, Agent may sell the Collateral, or any part thereof, at public or private sale, at any time or place, in one or more sales, at such price or prices, and upon such terms, either for cash, credit or future delivery, as Agent may elect. Except as to that part of the Collateral which is perishable or threatens to decline speedily in value or is of a type customarily sold on a recognized market, Agent shall give Loan Parties reasonable notification of such sale or sales, it being agreed that in all events written notice mailed to Borrowers at least ten (10) days prior to such sale or sales is reasonable notification. At any public sale Agent or any Lender may bid (including credit bid) for and become the purchaser, and Agent, any Lender or any other purchaser at any such sale thereafter shall hold the Collateral sold absolutely free from any claim or right of whatsoever kind, including any equity of redemption and all such claims, rights and equities are hereby expressly waived and released by each Loan Party. In connection with the exercise of the foregoing remedies, including the sale of Inventory, Agent is granted a perpetual nonrevocable, royalty free, nonexclusive license and Agent is granted permission to use all of each Loan Party's (a) Intellectual Property which is used or useful in connection with Inventory for the purpose of marketing, advertising for sale and selling or otherwise disposing of such Inventory and (b) equipment for the purpose of completing the manufacture of unfinished goods. The cash proceeds realized from the sale of any Collateral shall be applied to the Obligations in the order set forth in Section 11.5 hereof. Noncash proceeds will only be applied to the

Obligations as they are converted into cash. If any deficiency shall arise, Loan Parties shall remain liable to Agent and Lenders therefor.

(b) To the extent that Applicable Law imposes duties on Agent to exercise remedies in a commercially reasonable manner, each Loan Party acknowledges and agrees that it is not commercially unreasonable for Agent (i) to fail to incur expenses reasonably deemed significant by Agent to prepare Collateral for disposition or otherwise to complete raw material or work in process into finished goods or other finished products for disposition, (ii) to fail to obtain third party consents for access to Collateral to be disposed of, or to obtain or, if not required by other law, to fail to obtain governmental or third party consents for the collection or disposition of Collateral to be collected or disposed of, (iii) to fail to exercise collection remedies against Customers or other Persons obligated on Collateral or to remove Liens on or any adverse claims against Collateral, (iv) to exercise collection remedies against Customers and other Persons obligated on Collateral directly or through the use of collection agencies and other collection specialists, (v) to advertise dispositions of Collateral through publications or media of general circulation, whether or not the Collateral is of a specialized nature, (vi) to contact other Persons, whether or not in the same business as any Loan Party, for expressions of interest in acquiring all or any portion of such Collateral, (vii) to hire one or more professional auctioneers to assist in the disposition of Collateral, whether or not the Collateral is of a specialized nature, (viii) to dispose of Collateral by utilizing internet sites that provide for the auction of assets of the types included in the Collateral or that have the reasonable capacity of doing so, or that match buyers and sellers of assets, (ix) to dispose of assets in wholesale rather than retail markets, (x) to disclaim disposition warranties, such as title, possession or quiet enjoyment, (xi) to purchase insurance or credit enhancements to insure Agent against risks of loss, collection or disposition of Collateral or to provide to Agent a guaranteed return from the collection or disposition of Collateral, or (xii) to the extent deemed appropriate by Agent, to obtain the services of other brokers, investment bankers, consultants and other professionals to assist Agent in the collection or disposition of any of the Collateral. Each Loan Party acknowledges that the purpose of this Section 11.1(b) is to provide non-exhaustive indications of what actions or omissions by Agent would not be commercially unreasonable in Agent's exercise of remedies against the Collateral and that other actions or omissions by Agent shall not be deemed commercially unreasonable solely on account of not being indicated in this Section 11.1(b). Without limitation upon the foregoing, nothing contained in this Section 11.1(b) shall be construed to grant any rights to any Loan Party or to impose any duties on Agent that would not have been granted or imposed by this Agreement or by Applicable Law in the absence of this Section 11.1(b).

11.2 Agent's Discretion. Agent shall have the right in its sole discretion to determine which rights, Liens, security interests or remedies Agent may at any time pursue, relinquish, subordinate, or modify, which procedures, timing and methodologies to employ, and what any other action to take with respect to any or all of the Collateral and in what order, thereto and such determination will not in any way modify or affect any of Agent's or Lenders' rights hereunder as against Borrowers or each other.

11.3 Setoff. Subject to Section 14.13, in addition to any other rights which Agent or any Lender may have under Applicable Law, upon the occurrence of an Event of Default hereunder, Agent and such Lender shall have a right, immediately and without notice of any

kind, to apply any Loan Party's property held by Agent and such Lender or any of their Affiliates to reduce the Obligations and to exercise any and all rights of setoff which may be available to Agent and such Lender with respect to any deposits held by Agent or such Lender.

11.4 Rights and Remedies not Exclusive. The enumeration of the foregoing rights and remedies is not intended to be exhaustive and the exercise of any rights or remedy shall not preclude the exercise of any other right or remedies provided for herein or otherwise provided by law, all of which shall be cumulative and not alternative.

11.5 Allocation of Payments After Event of Default. Notwithstanding any other provisions of this Agreement to the contrary, after the occurrence and during the continuance of an Event of Default, all amounts collected or received by Agent on account of the Obligations (including without limitation any amounts on account of any of Cash Management Liabilities or Hedge Liabilities) or in respect of the Collateral may be paid over or delivered as follows:

FIRST, to the payment of all reasonable out-of-pocket costs and expenses (including reasonable attorneys' fees) of Agent in connection with enforcing its rights and the rights of Lenders under this Agreement and the Other Documents (other than Cash Management Products and Services, Lender-Provided Commodity Hedges, Lender-Provided Foreign Currency Hedges and Lender-Provided Interest Rate Hedges) and any Out-of-Formula Loans and Protective Advances funded by Agent with respect to the Collateral under or pursuant to the terms of this Agreement;

SECOND, to payment of any fees owed to Agent;

THIRD, to the payment of all reasonable out-of-pocket costs and expenses (including reasonable attorneys' fees) of each of the Lenders to the extent owing to such Lender pursuant to the terms of this Agreement;

FOURTH, to the payment of all of the Obligations arising under this Agreement and the Other Documents (other than Cash Management Liabilities and Hedge Liabilities) consisting of accrued fees and interest;

FIFTH, to the payment of the outstanding principal amount of the Obligations arising under this Agreement and the Other Documents (other than Cash Management Liabilities and Hedge Liabilities) (including the payment or cash collateralization of any outstanding Letters of Credit);

SIXTH, to all other Obligations under this Agreement and the Other Documents (including Cash Management Liabilities and Hedge Liabilities) which shall have become due and payable (hereunder, under the Other Documents, or otherwise) and not repaid pursuant to clauses "FIRST" through "FIFTH" above; and

NINTH, to all other Obligations which shall have become due and payable and not repaid pursuant to clauses "FIRST" through "SIXTH"; and

TENTH, to the payment of the surplus, if any, to whoever may be lawfully entitled to receive such surplus.

authorizes Agent to take such action on its behalf under the provisions of this Agreement and the Other Documents and to exercise such powers and to perform such duties hereunder and thereunder as are specifically delegated to or required of Agent by the terms hereof and thereof and such other powers as are reasonably incidental thereto and Agent shall hold all Collateral, payments of principal and interest, fees (except the fees set forth in Section 3.4), charges and collections (without giving effect to any collection days) received pursuant to this Agreement, for the ratable benefit of Lenders. Agent may perform any of its duties hereunder by or through its agents or employees. As to any matters not expressly provided for by this Agreement (including collection of the Revolving Credit Note) Agent shall not be required to exercise any discretion or take any action, but shall be required to act or to refrain from acting (and shall be fully protected in so acting or refraining from acting) upon the instructions of the Required Lenders, and such instructions shall be binding; provided, however, that Agent shall not be required to take any action which, in Agent's discretion, exposes Agent to liability or which is contrary to this Agreement or the Other Documents or Applicable Law unless Agent is furnished with an indemnification reasonably satisfactory to Agent with respect thereto.

14.2 Nature of Duties. Agent shall have no duties or responsibilities except those expressly set forth in this Agreement and the Other Documents. Neither Agent nor any of its officers, directors, employees or agents shall be (i) liable for any action taken or omitted by them as such hereunder or in connection herewith, unless caused by their gross (not mere) negligence or willful misconduct (as determined by a court of competent jurisdiction in a final non-appealable judgment), or (ii) responsible in any manner for any recitals, statements, representations or warranties made by any Borrower or any officer thereof contained in this Agreement, or in any of the Other Documents or in any certificate, report, statement or other document referred to or provided for in, or received by Agent under or in connection with, this Agreement or any of the Other Documents or for the value, validity, effectiveness, genuineness, due execution, enforceability or sufficiency of this Agreement, or any of the Other Documents or for any failure of any Borrower to perform its obligations hereunder. Agent shall not be under any obligation to any Lender to ascertain or to inquire as to the observance or performance of any of the agreements contained in, or conditions of, this Agreement or any of the Other Documents, or to inspect the properties, books or records of any Borrower. The duties of Agent as respects the Advances to Borrowers shall be mechanical and administrative in nature; Agent shall not have by reason of this Agreement a fiduciary relationship in respect of any Lender; and nothing in this Agreement, expressed or implied, is intended to or shall be so construed as to impose upon Agent any obligations in respect of this Agreement or the transactions described herein except as expressly set forth herein.

14.3 Lack of Reliance on Agent and Resignation. Independently and without reliance upon Agent or any other Lender, each Lender has made and shall continue to make (i) its own independent investigation of the financial condition and affairs of each Loan Party and each Guarantor in connection with the making and the continuance of the Advances hereunder and the taking or not taking of any action in connection herewith, and (ii) its own appraisal of the creditworthiness of each Loan Party and each Guarantor. Agent shall have no duty or responsibility, either initially or on a continuing basis, to provide any Lender with any credit or other information with respect thereto, whether coming into its possession before making of the Advances or at any time or times thereafter except as shall be provided by any Loan Party pursuant to the terms hereof. Agent shall not be responsible to any Lender for any recitals,

statements, information, representations or warranties herein or in any agreement, document, certificate or a statement delivered in connection with or for the execution, effectiveness, genuineness, validity, enforceability, collectability or sufficiency of this Agreement or any Other Document, or of the financial condition of any Loan Party or any Guarantor, or be required to make any inquiry concerning either the performance or observance of any of the terms, provisions or conditions of this Agreement, the Revolving Credit Note, the Other Documents or the financial condition of any Borrower, or the existence of any Event of Default or any Default.

14.4 Resignation of Agent; Successor Agent. Agent may resign on sixty (60) days written notice to each Lender and Borrowing Agent and upon such resignation, Required Lenders will promptly designate a successor Agent reasonably satisfactory to Borrowers (provided that no such approval by Borrowers shall be required (i) in any case where the successor Agent is one of the Lenders or (ii) after the occurrence and during the continuance of any Event of Default). Any such successor Agent shall succeed to the rights, powers and duties of Agent, and shall in particular succeed to all of Agent's right, title and interest in and to all of the Liens in the Collateral securing the Obligations created hereunder or any Other Document (including all account control agreements), and the term "Agent" shall mean such successor agent effective upon its appointment, and the former Agent's rights, powers and duties as Agent shall be terminated, without any other or further act or deed on the part of such former Agent. However, notwithstanding the foregoing, if at the time of the effectiveness of the new Agent's appointment, any further actions need to be taken in order to provide for the legally binding and valid transfer of any Liens in the Collateral from former Agent to new Agent and/or for the perfection of any Liens in the Collateral as held by new Agent or it is otherwise not then possible for new Agent to become the holder of a fully valid, enforceable and perfected Lien as to any of the Collateral, former Agent shall continue to hold such Liens solely as agent for perfection of such Liens on behalf of new Agent until such time as new Agent can obtain a fully valid, enforceable and perfected Lien on all Collateral, provided that Agent shall not be required to or have any liability or responsibility to take any further actions after such date as such agent for perfection to continue the perfection of any such Liens (other than to forego from taking any affirmative action to release any such Liens). After any Agent's resignation as Agent, the provisions of this Article XIV, and any indemnification rights under this Agreement, including without limitation, rights arising under Section 16.5 hereof, shall inure to its benefit as to any actions taken or omitted to be taken by it while it was Agent under this Agreement (and in the event resigning Agent continues to hold any Liens pursuant to the provisions of the immediately preceding sentence, the provisions of this Article XIV and any indemnification rights under this Agreement, including without limitation, rights arising under Section 16.5 hereof, shall inure to its benefit as to any actions taken or omitted to be taken by it in connection with such Liens).

14.5 Certain Rights of Agent. If Agent shall request instructions from Lenders with respect to any act or action (including failure to act) in connection with this Agreement or any Other Document, Agent shall be entitled to refrain from such act or taking such action unless and until Agent shall have received instructions from the Required Lenders; and Agent shall not incur liability to any Person by reason of so refraining. Without limiting the foregoing, Lenders shall not have any right of action whatsoever against Agent as a result of its acting or refraining from acting hereunder in accordance with the instructions of the Required Lenders.

14.6 Reliance. Agent shall be entitled to rely, and shall be fully protected in relying, upon any note, writing, resolution, notice, statement, certificate, email, facsimile, telex, teletype or telecopier message, cablegram, order or other document or telephone message believed by it to be genuine and correct and to have been signed, sent or made by the proper person or entity, and, with respect to all legal matters pertaining to this Agreement and the Other Documents and its duties hereunder, upon advice of counsel selected by it. Agent may employ agents and attorneys-in-fact and shall not be liable for the default or misconduct of any such agents or attorneys-in-fact selected by Agent with reasonable care.

14.7 Notice of Default. Agent shall not be deemed to have knowledge or notice of the occurrence of any Default or Event of Default hereunder or under the Other Documents, unless Agent has received notice from a Lender or Borrowing Agent referring to this Agreement or the Other Documents, describing such Default or Event of Default and stating that such notice is a "notice of default." In the event that Agent receives such a notice, Agent shall give notice thereof to Lenders. Agent shall take such action with respect to such Default or Event of Default as shall be reasonably directed by Required Lenders; provided, that, unless and until Agent shall have received such directions, Agent may (but shall not be obligated to) take such action, or refrain from taking such action, with respect to such Default or Event of Default as it shall deem advisable in the best interests of Lenders.

14.8 Indemnification. To the extent Agent is not reimbursed and indemnified by Borrowers, each Lender will reimburse and indemnify Agent in proportion to its respective portion of the outstanding Advances and its respective Participation Commitments in the outstanding Letters of Credit (or, if no Advances are outstanding, pro rata according to the percentage that its Revolving Commitment Amount constitutes of the total aggregate Revolving Commitment Amounts), from and against any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements of any kind or nature whatsoever which may be imposed on, incurred by or asserted against Agent in performing its duties hereunder, or in any way relating to or arising out of this Agreement or any Other Document; provided that Lenders shall not be liable for any portion of such liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements resulting from Agent's gross (not mere) negligence or willful misconduct (as determined by a court of competent jurisdiction in a final non-appealable judgment).

14.9 Agent in its Individual Capacity. With respect to the obligation of Agent to lend under this Agreement, the Advances made by it shall have the same rights and powers hereunder as any other Lender and as if it were not performing the duties as Agent specified herein; and the term "Lender" or any similar term shall, unless the context clearly otherwise indicates, include Agent in its individual capacity as a Lender. Agent may engage in business with any Loan Party as if it were not performing the duties specified herein, and may accept fees and other consideration from any Borrower for services in connection with this Agreement or otherwise without having to account for the same to Lenders.

14.10 Delivery of Documents. To the extent Agent receives financial statements or notices required under Article IX or Borrowing Base Certificates from any Borrower pursuant to the terms of this Agreement which any Borrower is not obligated to deliver to each Lender, Agent will promptly furnish such documents and information to Lenders.

14.11 Borrowers' Undertaking to Agent. Without prejudice to their respective obligations to Lenders under the other provisions of this Agreement, each Borrower hereby undertakes with Agent to pay to Agent from time to time on demand all amounts from time to time due and payable by it for the account of Agent or Lenders or any of them pursuant to this Agreement to the extent not already paid. Any payment made pursuant to any such demand shall pro tanto satisfy the relevant Borrower's obligations to make payments for the account of Lenders or the relevant one or more of them pursuant to this Agreement.

14.12 No Reliance on Agent's Customer Identification Program. To the extent the Advances or this Agreement is, or becomes, syndicated in cooperation with other Lenders, each Lender acknowledges and agrees that neither such Lender, nor any of its Affiliates, participants or assignees, may rely on Agent to carry out such Lender's, Affiliate's, participant's or assignee's customer identification program, or other obligations required or imposed under or pursuant to the USA PATRIOT Act or the regulations thereunder, including the regulations contained in 31 CFR 103.121 (as hereafter amended or replaced, the "CIP Regulations"), or any other Anti-Terrorism Law, including any programs involving any of the following items relating to or in connection with any Loan Party, its Affiliates or its agents, this Agreement, the Other Documents or the transactions hereunder or contemplated hereby: (1) any identity verification procedures, (2) any record-keeping, (3) comparisons with government lists, (4) customer notices or (5) other procedures required under the CIP Regulations or such Anti-Terrorism Laws.

14.13 Other Agreements. Each of the Lenders agrees that it shall not, without the express consent of Agent, and that it shall, to the extent it is lawfully entitled to do so, upon the request of Agent, set off against the Obligations, any amounts owing by such Lender to any Borrower or any deposit accounts of any Borrower now or hereafter maintained with such Lender. Anything in this Agreement to the contrary notwithstanding, each of the Lenders further agrees that it shall not, unless specifically requested to do so by Agent, take any action to protect or enforce its rights arising out of this Agreement or the Other Documents, it being the intent of Lenders that any such action to protect or enforce rights under this Agreement and the Other Documents shall be taken in concert and at the direction or with the consent of Agent or Required Lenders.

XV. BORROWING AGENCY.

15.1 Borrowing Agency Provisions.

(a) Each Borrower hereby irrevocably designates Borrowing Agent to be its attorney and agent and in such capacity to (i) borrow, (ii) request advances, (iii) request the issuance of Letters of Credit, (iv) sign and endorse notes, (v) execute and deliver all instruments, documents, applications, security agreements, reimbursement agreements and letter of credit agreements for Letters of Credit and all other certificates, notice, writings and further assurances now or hereafter required hereunder, (vi) make elections regarding interest rates, (vii) give instructions regarding Letters of Credit and agree with Issuer upon any amendment, extension or renewal of any Letter of Credit and (viii) otherwise take action under and in connection with this Agreement and the Other Documents, all on behalf of and in the name such Borrower or Borrowers, and hereby authorizes Agent to pay over or credit all loan proceeds hereunder in accordance with the request of Borrowing Agent.

(b) The handling of this credit facility as a co-borrowing facility with a borrowing agent in the manner set forth in this Agreement is solely as an accommodation to Borrowers and at their request. Neither Agent nor any Lender shall incur liability to Borrowers as a result thereof. To induce Agent and Lenders to do so and in consideration thereof, each Borrower hereby indemnifies Agent and each Lender and holds Agent and each Lender harmless from and against any and all liabilities, expenses, losses, damages and claims of damage or injury asserted against Agent or any Lender by any Person arising from or incurred by reason of the handling of the financing arrangements of Borrowers as provided herein, reliance by Agent or any Lender on any request or instruction from Borrowing Agent or any other action taken by Agent or any Lender with respect to this Section 15.1 except due to willful misconduct or gross (not mere) negligence by the indemnified party (as determined by a court of competent jurisdiction in a final and non-appealable judgment).

(c) All Obligations shall be joint and several, and each Borrower shall make payment upon the maturity of the Obligations by acceleration or otherwise, and such obligation and liability on the part of each Borrower shall in no way be affected by any extensions, renewals and forbearance granted by Agent or any Lender to any Borrower, failure of Agent or any Lender to give any Borrower notice of borrowing or any other notice, any failure of Agent or any Lender to pursue or preserve its rights against any Borrower, the release by Agent or any Lender of any Collateral now or thereafter acquired from any Borrower, and such agreement by each Borrower to pay upon any notice issued pursuant thereto is unconditional and unaffected by prior recourse by Agent or any Lender to the other Borrowers or any Collateral for such Borrower's Obligations or the lack thereof. Each Borrower waives all suretyship defenses.

15.2 Waiver of Subrogation. Each Borrower expressly waives any and all rights of subrogation, reimbursement, indemnity, exoneration, contribution of any other claim which such Borrower may now or hereafter have against the other Borrowers or any other Person directly or contingently liable for the Obligations hereunder, or against or with respect to any other Borrowers' property (including, without limitation, any property which is Collateral for the Obligations), arising from the existence or performance of this Agreement, until termination of this Agreement and repayment in full of the Obligations.

XVI. MISCELLANEOUS

16.1 Governing Law. This Agreement and each Other Document (unless and except to the extent expressly provided otherwise in any such Other Document), and all matters relating hereto or thereto or arising herefrom or therefrom (whether arising under contract law, tort law or otherwise) shall be governed by and construed in accordance with the laws of the State of Ohio applied to contracts to be performed within the State of Ohio. Any judicial proceeding brought by or against any Loan Party with respect to any of the Obligations, this Agreement, the Other Documents or any related agreement may be brought in any court of competent jurisdiction in the State of Ohio, United States of America, and, by execution and delivery of this Agreement, each Loan Party accepts for itself and in connection with its properties, generally and unconditionally, the non-exclusive jurisdiction of the aforesaid courts, and irrevocably agrees to be bound by any judgment rendered thereby in connection with this Agreement. Each Loan Party hereby waives personal service of any and all process upon it and consents that all such service of process may be made by certified or registered mail (return receipt requested) directed

to Borrowing Agent at its address set forth in Section 16.6 and service so made shall be deemed completed five (5) days after the same shall have been so deposited in the mails of the United States of America, or, at Agent's option, by service upon Borrowing Agent which each Loan Party irrevocably appoints as such Borrower's Agent for the purpose of accepting service within the State of Ohio. Nothing herein shall affect the right to serve process in any manner permitted by law or shall limit the right of Agent or any Lender to bring proceedings against any Loan Party in the courts of any other jurisdiction. Each Loan Party waives any objection to jurisdiction and venue of any action instituted hereunder and shall not assert any defense based on lack of jurisdiction or venue or based upon forum non conveniens. Each Loan Party waives the right to remove any judicial proceeding brought against such Loan Party in any state court to any federal court. Any judicial proceeding by any Loan Party against Agent or any Lender involving, directly or indirectly, any matter or claim in any way arising out of, related to or connected with this Agreement or any related agreement, shall be brought only in a federal or state court located in the County of Cuyahoga, State of Ohio.

16.2 Entire Understanding.

(a) This Agreement and the documents executed concurrently herewith contain the entire understanding between each Loan Party, Agent and each Lender and supersedes all prior agreements and understandings, if any, relating to the subject matter hereof. Any promises, representations, warranties or guarantees not herein contained and hereinafter made shall have no force and effect unless in writing, signed by each Loan Party's, Agent's and each Lender's respective officers. Neither this Agreement nor any portion or provisions hereof may be changed, modified, amended, waived, supplemented, discharged, cancelled or terminated orally or by any course of dealing, or in any manner other than by an agreement in writing, signed by the party to be charged. Notwithstanding the foregoing, Agent may modify this Agreement or any of the Other Documents for the purposes of completing missing content or correcting erroneous content of an administrative nature, without the need for a written amendment, provided that Agent shall send a copy of any such modification to Borrowing Agent and each Lender (which copy may be provided by electronic mail). Each Loan Party acknowledges that it has been advised by counsel in connection with the execution of this Agreement and Other Documents and is not relying upon oral representations or statements inconsistent with the terms and provisions of this Agreement.

(b) The Required Lenders, Agent with the consent in writing of the Required Lenders, and Loan Parties may, subject to the provisions of this Section 16.2(b), from time to time enter into written supplemental agreements to this Agreement or the Other Documents executed by Loan Parties, for the purpose of adding or deleting any provisions or otherwise changing, varying or waiving in any manner the rights of Lenders, Agent or Loan Parties thereunder or the conditions, provisions or terms thereof or waiving any Event of Default thereunder, but only to the extent specified in such written agreements; provided, however that no such supplemental agreement shall:

(i) increase the Revolving Commitment Percentage, or the maximum dollar amount of the Revolving Commitment Amount of any Lender without the consent of such Lender directly affected thereby;

(ii) whether or not any Advances are outstanding, extend the Term or the time for payment of principal or interest of any Advance (excluding the due date of any mandatory prepayment of an Advance), or any fee payable to any Lender, or reduce the principal amount of or the rate of interest borne by any Advances or reduce any fee payable to any Lender, without the consent of each Lender directly affected thereby (except that Required Lenders may elect to waive or rescind any imposition of the Default Rate under Section 3.1 or of default rates of Letter of Credit fees under Section 3.2 (unless imposed by Agent));

(iii) increase the Maximum Revolving Advance Amount without the consent of all Lenders holding a Revolving Commitment;

(iv) alter the definition of the term Required Lenders or Required Lenders for Eligibility or alter, amend or modify this Section 16.2(b) without the consent of all Lenders;

(v) alter the definition of the term "Unbilled Eligible Receivable", "Eligible Invoice", "Eligible Receivable", "Eligible Inventory", "Receivables Advance Rate", "Inventory Advance Rate" or "Formula Amount" in a manner that has the effect of increasing the Formula Amount without the consent of all Required Lenders for Eligibility;

(vi) release any Collateral during any calendar year (other than in accordance with the provisions of this Agreement) having an aggregate value in excess of \$1,000,000 without the consent of all Lenders;

(vii) change the rights and duties of Agent without the consent of all Lenders;

(viii) subject to clause (e) below, permit any Revolving Advance to be made if after giving effect thereto the total of Revolving Advances outstanding hereunder would exceed the Formula Amount for more than thirty (30) consecutive Business Days or exceed one hundred and ten percent (110%) of the Formula Amount without the consent of all Lenders;

(ix) increase the Advance Rates above the Advance Rates in effect on the Closing Date without the consent of all Lenders;

(x) release any Guarantor or any Borrower without the consent of all Lenders; or

(xi) subordinate all or substantially all of Agent's Liens under this Agreement and the Other Documents.

(c) Any such supplemental agreement shall apply equally to each Lender and shall be binding upon Loan Parties, Lenders and Agent and all future holders of the Obligations. In the case of any waiver, Loan Parties, Agent and Lenders shall be restored to their former positions and rights, and any Event of Default waived shall be deemed to be cured and not

continuing, but no waiver of a specific Event of Default shall extend to any subsequent Event of Default (whether or not the subsequent Event of Default is the same as the Event of Default which was waived), or impair any right consequent thereon.

(d) In the event that (i) (A) Agent requests the consent of a Lender pursuant to this Section 16.2 or (B) pursuant to an amendment or waiver any consent is required by all Lenders, or each Lender affected thereby, (ii) such Lender withholds its consent, and (iii) the Required Lenders provide such consent, then PNC may, at its option, require such Lender to assign its interest in the Advances to PNC or to another Lender or to any other Person designated by Agent (the "Designated Lender"), for a price equal to (x) the then outstanding principal amount thereof plus (y) accrued and unpaid interest and fees due such Lender, which interest and fees shall be paid when collected from Loan Parties. In the event PNC elects to require any Lender to assign its interest to PNC or to the Designated Lender, PNC will so notify such Lender in writing within forty five (45) days following such Lender's denial, and such Lender will assign its interest to PNC or the Designated Lender no later than five (5) days following receipt of such notice pursuant to a Commitment Transfer Supplement executed by such Lender, PNC or the Designated Lender, as appropriate, and Agent.

(e) Notwithstanding (i) the existence of a Default or an Event of Default, (ii) that any of the other applicable conditions precedent set forth in Section 8.2 hereof have not been satisfied or the commitments of Lenders to make Revolving Advances hereunder have been terminated for any reason, or (iii) any other contrary provision of this Agreement, Agent may at its discretion and without the consent of any Lender, voluntarily permit the outstanding Revolving Advances at any time to exceed the Formula Amount by up to ten percent (10%) of the Formula Amount for up to thirty (30) consecutive Business Days (the "Out-of-Formula Loans"); provided that in no event shall Revolving Advances (when combined with Letters of Credit) exceed the aggregate Revolving Commitment Amount of all Lenders. If Agent is willing in its sole and absolute discretion to permit such Out-of-Formula Loans, Lenders holding the Revolving Commitments shall be obligated to fund such Out-of-Formula Loans in accordance with their respective Revolving Commitment Percentages, and such Out-of-Formula Loans shall be payable on demand and shall bear interest at the Default Rate for Revolving Advances consisting of Domestic Rate Loans; provided that, if Lenders do make Out-of-Formula Loans, neither Agent nor Lenders shall be deemed thereby to have changed the limits of Section 2.1(a), nor shall any Lender be obligated to fund Revolving Advances in excess of its Revolving Commitment Amount. For purposes of this paragraph, the discretion granted to Agent hereunder shall not preclude involuntary overadvances that may result from time to time due to the fact that the Formula Amount was unintentionally exceeded for any reason, including, but not limited to, Collateral previously deemed to be either "Eligible Receivables" or "Eligible Inventory," as applicable, becomes ineligible, collections of Receivables applied to reduce outstanding Revolving Advances are thereafter returned for insufficient funds or overadvances are made to protect or preserve the Collateral. In the event Agent involuntarily permits the outstanding Revolving Advances to exceed the Formula Amount by more than ten percent (10%), Agent shall use its efforts to have Borrowers decrease such excess in as expeditious a manner as is practicable under the circumstances and not inconsistent with the reason for such excess. Revolving Advances made after Agent has determined the existence of involuntary overadvances shall be deemed to be involuntary overadvances and shall be decreased in accordance with the preceding sentence. To the extent any Out-of-Formula Loans are not actually funded by the

other Lenders as provided for in this Section 16.2(e), Agent may elect in its discretion to fund such Out-of-Formula Loans and any such Out-of-Formula Loans so funded by Agent shall be deemed to be Revolving Advances made by and owing to Agent, and Agent shall be entitled to all rights (including accrual of interest) and remedies of a Lender holding a Revolving Commitment under this Agreement and the Other Documents with respect to such Revolving Advances.

(f) In addition to (and not in substitution of) the discretionary Revolving Advances permitted above in this Section 16.2, Agent is hereby authorized by Borrowers and Lenders, at any time in Agent's sole discretion, regardless of (i) the existence of a Default or an Event of Default, (ii) whether any of the other applicable conditions precedent set forth in Section 8.2 hereof have not been satisfied or the commitments of Lenders to make Revolving Advances hereunder have been terminated for any reason, or (iii) any other contrary provision of this Agreement, to make Revolving Advances to Borrowers on behalf of Lenders which Agent, in its reasonable business judgment, deems necessary or desirable (a) to preserve or protect the Collateral, or any portion thereof, (b) to enhance the likelihood of, or maximize the amount of, repayment of the Advances and other Obligations, or (c) to pay any other amount chargeable to Borrowers pursuant to the terms of this Agreement (collectively, the "Protective Advances"); provided, that at any time after giving effect to any such Protective Advances, the outstanding Revolving Advances do not exceed (A) one hundred and ten percent (110%) of the Formula Amount or (B) when combined with outstanding Letters of Credit, the aggregate Revolving Commitment Amount of all Lenders. To the extent any Protective Advances are not actually funded by the other Lenders as provided for in this Section 16.2(f), any such Protective Advances funded by Agent shall be deemed to be Revolving Advances made by and owing to Agent, and Agent shall be entitled to all rights (including accrual of interest) and remedies of a Lender holding a Revolving Commitment under this Agreement and the Other Documents with respect to such Revolving Advances.

16.3 Successors and Assigns; Participations; New Lenders.

(a) This Agreement shall be binding upon and inure to the benefit of Loan Parties, Agent, each Lender, all future holders of the Obligations and their respective successors and permitted assigns, except that no Loan Party may assign or transfer any of its rights or obligations under this Agreement without the prior written consent of Agent and each Lender.

(b) Each Borrower acknowledges that in the regular course of commercial banking business one or more Lenders may at any time and from time to time sell participating interests in the Advances to other Persons (each such transferee or purchaser of a participating interest, a "Participant"). Each Participant may exercise all rights of payment (including rights of set-off) with respect to the portion of such Advances held by it or other Obligations payable hereunder as fully as if such Participant were the direct holder thereof provided that (i) Borrowers shall not be required to pay to any Participant more than the amount which it would have been required to pay to Lender which granted an interest in its Advances or other Obligations payable hereunder to such Participant had such Lender retained such interest in the Advances hereunder or other Obligations payable hereunder unless the sale of the participation to such Participant is made with Borrowers' prior written consent, and (ii) in no event shall Borrowers be required to pay any such amount arising from the same circumstances and with

respect to the same Advances or other Obligations payable hereunder to both such Lender and such Participant. Each Loan Party hereby grants to any Participant a continuing security interest in any deposits, moneys or other property actually or constructively held by such Participant as security for the Participant's interest in the Advances.

(c) Any Lender, with the consent of Agent which shall not be unreasonably withheld or delayed, may sell, assign or transfer all or any part of its rights and obligations under or relating to Revolving Advances under this Agreement and the Other Documents to one or more Persons and one or more Persons may commit to make Advances hereunder (each a "Purchasing Lender"), in minimum amounts of not less than \$5,000,000, pursuant to a Commitment Transfer Supplement, executed by a Purchasing Lender, the transferor Lender, and Agent and delivered to Agent for recording. Upon such execution, delivery, acceptance and recording, from and after the transfer effective date determined pursuant to such Commitment Transfer Supplement, (i) Purchasing Lender thereunder shall be a party hereto and, to the extent provided in such Commitment Transfer Supplement, have the rights and obligations of a Lender thereunder with a Revolving Commitment Percentage as set forth therein, and (ii) the transferor Lender thereunder shall, to the extent provided in such Commitment Transfer Supplement, be released from its obligations under this Agreement, the Commitment Transfer Supplement creating a novation for that purpose. Such Commitment Transfer Supplement shall be deemed to amend this Agreement to the extent, and only to the extent, necessary to reflect the addition of such Purchasing Lender and the resulting adjustment of the Revolving Commitment Percentages arising from the purchase by such Purchasing Lender of all or a portion of the rights and obligations of such transferor Lender under this Agreement and the Other Documents. Each Loan Party hereby consents to the addition of such Purchasing Lender and the resulting adjustment of the Revolving Commitment Percentages arising from the purchase by such Purchasing Lender of all or a portion of the rights and obligations of such transferor Lender under this Agreement and the Other Documents. Each Loan Party shall execute and deliver such further documents and do such further acts and things in order to effectuate the foregoing.

(d) Any Lender, with the consent of Agent which shall not be unreasonably withheld or delayed, may directly or indirectly sell, assign or transfer all or any portion of its rights and obligations under or relating to Revolving Advances under this Agreement and the Other Documents to an entity, whether a corporation, partnership, trust, limited liability company or other entity that (i) is engaged in making, purchasing, holding or otherwise investing in bank loans and similar extensions of credit in the ordinary course of its business and (ii) is administered, serviced or managed by the assigning Lender or an Affiliate of such Lender (a "Purchasing CLO" and together with each Participant and Purchasing Lender, each a "Transferee" and collectively the "Transferees"), pursuant to a Commitment Transfer Supplement modified as appropriate to reflect the interest being assigned ("Modified Commitment Transfer Supplement"), executed by any intermediate purchaser, the Purchasing CLO, the transferor Lender, and Agent as appropriate and delivered to Agent for recording. Upon such execution and delivery, from and after the transfer effective date determined pursuant to such Modified Commitment Transfer Supplement, (i) Purchasing CLO thereunder shall be a party hereto and, to the extent provided in such Modified Commitment Transfer Supplement, have the rights and obligations of a Lender thereunder and (ii) the transferor Lender thereunder shall, to the extent provided in such Modified Commitment Transfer Supplement, be released from its obligations under this Agreement, the Modified Commitment Transfer Supplement

creating a novation for that purpose. Such Modified Commitment Transfer Supplement shall be deemed to amend this Agreement to the extent, and only to the extent, necessary to reflect the addition of such Purchasing CLO. Each Loan Party hereby consents to the addition of such Purchasing CLO. Each Loan Party shall execute and deliver such further documents and do such further acts and things in order to effectuate the foregoing.

(e) Agent shall maintain at its address a copy of each Commitment Transfer Supplement and Modified Commitment Transfer Supplement delivered to it and a register (the "Register") for the recordation of the names and addresses of each Lender and the outstanding principal, accrued and unpaid interest and other fees due hereunder. The entries in the Register shall be conclusive, in the absence of manifest error, and each Loan Party, Agent and Lenders may treat each Person whose name is recorded in the Register as the owner of the Advance recorded therein for the purposes of this Agreement. The Register shall be available for inspection by Borrowing Agent or any Lender at any reasonable time and from time to time upon reasonable prior notice. Agent shall receive a fee in the amount of \$3,500 payable by the applicable Purchasing Lender and/or Purchasing CLO upon the effective date of each transfer or assignment (other than to an intermediate purchaser) to such Purchasing Lender and/or Purchasing CLO.

(f) Each Loan Party authorizes each Lender to disclose to any Transferee and any prospective Transferee any and all financial information in such Lender's possession concerning such Loan Party which has been delivered to such Lender by or on behalf of such Loan Party pursuant to this Agreement or in connection with such Lender's credit evaluation of such Loan Party.

(g) Notwithstanding anything to the contrary contained in this Agreement, any Lender may at any time and from time to time pledge or assign a security interest in all or any portion of its rights under this Agreement to secure obligations of such Lender, including any pledge or assignment to secure obligations to a Federal Reserve Bank; provided that no such pledge or assignment shall release such Lender from any of its obligations hereunder or substitute any such pledgee or assignee for such Lender as a party hereto.

16.4 Application of Payments. Agent shall have the continuing and exclusive right to apply or reverse and re-apply any payment and any and all proceeds of Collateral to any portion of the Obligations. To the extent that any Loan Party makes a payment or Agent or any Lender receives any payment or proceeds of the Collateral for any Loan Party's benefit, which are subsequently invalidated, declared to be fraudulent or preferential, set aside or required to be repaid to a trustee, debtor in possession, receiver, custodian or any other party under any bankruptcy law, common law or equitable cause, then, to such extent, the Obligations or part thereof intended to be satisfied shall be revived and continue as if such payment or proceeds had not been received by Agent or such Lender.

16.5 Indemnity. Each Loan Party shall defend, protect, indemnify, pay and save harmless Agent, Issuer, each Lender and each of their respective officers, directors, Affiliates, attorneys, employees and agents (each an "Indemnified Party") for and from and against any and all claims, demands, liabilities, obligations, losses, damages, penalties, fines, actions, judgments, suits, costs, charges, expenses and disbursements of any kind or nature whatsoever (including

fees and disbursements of counsel (including allocated costs of internal counsel)) (collectively, "Claims") which may be imposed on, incurred by, or asserted against any Indemnified Party in arising out of or in any way relating to or as a consequence, direct or indirect, of: (i) this Agreement, the Other Documents, the Advances and other Obligations and/or the transactions contemplated hereby including the Transactions, (ii) any action or failure to act or action taken only after delay or the satisfaction of any conditions by any Indemnified Party in connection with and/or relating to the negotiation, execution, delivery or administration of the Agreement and the Other Documents, the credit facilities established hereunder and thereunder and/or the transactions contemplated hereby including the Transactions, (iii) any Loan Party's or any Guarantor's failure to observe, perform or discharge any of its covenants, obligations, agreements or duties under or breach of any of the representations or warranties made in this Agreement and the Other Documents, (iv) the enforcement of any of the rights and remedies of Agent, Issuer or any Lender under the Agreement and the Other Documents, (v) any threatened or actual imposition of fines or penalties, or disgorgement of benefits, for violation of any Anti-Terrorism Law by any Loan Party, any Affiliate or Subsidiary of any Loan Parties, or any Guarantor, and (vi) any claim, litigation, proceeding or investigation instituted or conducted by any Governmental Body or instrumentality or any other Person with respect to any aspect of, or any transaction contemplated by, or referred to in, or any matter related to, this Agreement or the Other Documents, whether or not Agent or any Lender is a party thereto. Without limiting the generality of any of the foregoing, each Loan Party shall defend, protect, indemnify, pay and save harmless each Indemnified Party from (x) any Claims which may be imposed on, incurred by, or asserted against any Indemnified Party arising out of or in any way relating to or as a consequence, direct or indirect, of the issuance of any Letter of Credit hereunder and (y) any Claims which may be imposed on, incurred by, or asserted against any Indemnified Party under any Environmental Laws with respect to or in connection with the Real Property, any Hazardous Discharge, the presence of any Hazardous Materials affecting the Real Property (whether or not the same originates or emerges from the Real Property or any contiguous real estate), including any Claims consisting of or relating to the imposition or assertion of any Lien on any of the Real Property under any Environmental Laws and any loss of value of the Real Property as a result of the foregoing except to the extent such loss, liability, damage and expense is attributable to any Hazardous Discharge resulting from actions on the part of Agent or any Lender. Loan Parties' obligations under this Section 16.5 shall arise upon the discovery of the presence of any Hazardous Materials at the Real Property, whether or not any federal, state, or local environmental agency has taken or threatened any action in connection with the presence of any Hazardous Materials, in each such case except to the extent that any of the foregoing arises out of the gross negligence or willful misconduct of the Indemnified Party (as determined by a court of competent jurisdiction in a final and non-appealable judgment). Without limiting the generality of the foregoing, this indemnity shall extend to any liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses and disbursements of any kind or nature whatsoever (including fees and disbursements of counsel) asserted against or incurred by any of the Indemnified Parties by any Person under any Environmental Laws or similar laws by reason of any Loan Party's or any other Person's failure to comply with laws applicable to solid or hazardous waste materials, including Hazardous Materials and Hazardous Waste, or other Toxic Substances. Additionally, if any taxes (excluding taxes imposed upon or measured solely by the net income of Agent and Lenders, but including any intangibles taxes, stamp tax, recording tax or franchise tax) shall be payable by Agent, Lenders or Loan Parties on account of

the execution or delivery of this Agreement, or the execution, delivery, issuance or recording of any of the Other Documents, or the creation or repayment of any of the Obligations hereunder, by reason of any Applicable Law now or hereafter in effect, Loan Parties will pay (or will promptly reimburse Agent and Lenders for payment of) all such taxes, including interest and penalties thereon, and will indemnify and hold the Indemnified Parties harmless from and against all liability in connection therewith.

16.6 Notice. Any notice or request hereunder may be given to Borrowing Agent or any Loan Party or to Agent or any Lender at their respective addresses set forth below or at such other address as may hereafter be specified in a notice designated as a notice of change of address under this Section. Any notice, request, demand, direction or other communication (for purposes of this Section 16.6 only, a "Notice") to be given to or made upon any party hereto under any provision of this Agreement shall be given or made by telephone or in writing (which includes by means of electronic transmission (i.e., "e-mail") or facsimile transmission or by setting forth such Notice on a website to which Borrowers are directed (an "Internet Posting") if Notice of such Internet Posting (including the information necessary to access such site) has previously been delivered to the applicable parties hereto by another means set forth in this Section 16.6) in accordance with this Section 16.6. Any such Notice must be delivered to the applicable parties hereto at the addresses and numbers set forth under their respective names on Section 16.6 hereof or in accordance with any subsequent unrevoked Notice from any such party that is given in accordance with this Section 16.6. Any Notice shall be effective:

- (a) In the case of hand-delivery, when delivered;
- (b) If given by mail, four (4) days after such Notice is deposited with the United States Postal Service, with first-class postage prepaid, return receipt requested;
- (c) In the case of a telephonic Notice, when a party is contacted by telephone, if delivery of such telephonic Notice is confirmed no later than the next Business Day by hand delivery, a facsimile or electronic transmission, an Internet Posting or an overnight courier delivery of a confirmatory Notice (received at or before noon on such next Business Day);
- (d) In the case of a facsimile transmission, when sent to the applicable party's facsimile machine's telephone number, if the party sending such Notice receives confirmation of the delivery thereof from its own facsimile machine;
- (e) In the case of electronic transmission, when actually received;
- (f) In the case of an Internet Posting, upon delivery of a Notice of such posting (including the information necessary to access such site) by another means set forth in this Section 16.6; and
- (g) If given by any other means (including by overnight courier), when actually received.

Any Lender giving a Notice to Borrowing Agent or any Loan Party shall concurrently send a copy thereof to Agent, and Agent shall promptly notify the other Lenders of its receipt of such Notice.

(A) If to Agent or PNC at:

PNC Bank, National Association
1900 East Ninth Street, 9th Floor
Mail Stop B7-Y813-09-5
Cleveland, Ohio 44114
Attention: Todd Milenius
Telephone: (216) 222-9761
Facsimile: (216) 222-8155

with a copy to:

PNC Bank, National Association
PNC Agency Services
PNC Firstside Center
500 First Avenue
Mailstop: P7-PFSC-04-V
Pittsburgh, Pennsylvania 15219
Attention: Jennifer Rosenstein
Telephone: (412) 762-0915
Facsimile: (412) 705-2006

with an additional copy to:

Jones Day
901 Lakeside Avenue
Cleveland, Ohio 44114
Attention: Martin S. Gates
Telephone: (216) 586-7292
Facsimile: (216) 579-0212

(B) If to a Lender other than Agent, as specified on the signature pages hereof.

(C) If to Borrowing Agent or any Loan Party:

Volunteer Energy Services, Inc.
790 Windmill Drive
Pickerington, Ohio 43147
Attention: John L. Einstein, Esq.
Telephone: (614) 729-2325
Facsimile: (614) 729-2326

with a copy to:

Brian S. Stewart
233 S. Scioto Street
Circleville, Ohio 43113
Attention: John Wilkerson
Telephone: (740) 474-3103
Email: brian@farthingstewart.com

16.7 Survival. The obligations of Loan Parties under Sections 2.2(f), 2.2(g), 2.17, 3.7, 3.8, 3.9, 3.10, 4.16(h), 6.5, 16.5, 16.9 and Article XVII and the obligations of Lenders under Section 2.2, 2.13(b), 2.16, 2.18, 2.20, 14.7 and 14.8, shall survive termination of this Agreement and the Other Documents and payment in full of the Obligations.

16.8 Severability. If any part of this Agreement is contrary to, prohibited by, or deemed invalid under Applicable Laws, such provision shall be inapplicable and deemed omitted to the extent so contrary, prohibited or invalid, but the remainder hereof shall not be invalidated thereby and shall be given effect so far as possible.

16.9 Expenses. Borrowers shall pay (i) all out-of-pocket expenses incurred by Agent and its Affiliates (including the reasonable fees, charges and disbursements of counsel for Agent), and shall pay all fees and time charges and disbursements for attorneys who may be employees of Agent, in connection with the syndication of the credit facilities provided for herein, the preparation, negotiation, execution, delivery and administration of this Agreement and the Other Documents or any amendments, modifications or waivers of the provisions hereof or thereof (whether or not the transactions contemplated hereby or thereby shall be consummated), (ii) all out-of-pocket expenses incurred by Issuer in connection with the issuance, amendment, renewal or extension of any Letter of Credit or any demand for payment thereunder, (iii) all out-of-pocket expenses incurred by Agent, any Lender or Issuer (including the fees, charges and disbursements of any counsel for Agent, any Lender or Issuer), and shall pay all fees and time charges for attorneys who may be employees of Agent, any Lender or Issuer, in connection with the enforcement or protection of its rights (A) in connection with this Agreement and the Other Documents, including its rights under this Section, or (B) in connection with the Advances made or Letters of Credit issued hereunder, including all such out-of-pocket expenses incurred during any workout, restructuring or negotiations in respect of such Loans or Letters of Credit, and (iv) all reasonable out-of-pocket expenses of Agent's regular employees and agents engaged periodically to perform audits of the any Borrower's or any Borrower's Affiliate's or Subsidiary's books, records and business properties.

16.10 Injunctive Relief. Each Loan Party recognizes that, in the event any Loan Party fails to perform, observe or discharge any of its obligations or liabilities under this Agreement, or threatens to fail to perform, observe or discharge such obligations or liabilities, any remedy at law may prove to be inadequate relief to Lenders; therefore, Agent, if Agent so requests, shall be entitled to temporary and permanent injunctive relief in any such case without the necessity of proving that actual damages are not an adequate remedy.

16.11 Consequential Damages. Neither Agent nor any Lender, nor any agent or attorney for any of them, shall be liable to any Loan Party or any Guarantor (or any Affiliate of any such Person) for indirect, punitive, exemplary or consequential damages arising from any breach of contract, tort or other wrong relating to the establishment, administration or collection of the Obligations or as a result of any transaction contemplated under this Agreement or any Other Document.

16.12 Captions. The captions at various places in this Agreement are intended for convenience only and do not constitute and shall not be interpreted as part of this Agreement.

16.13 Counterparts; Facsimile Signatures. This Agreement may be executed in any number of and by different parties hereto on separate counterparts, all of which, when so executed, shall be deemed an original, but all such counterparts shall constitute one and the same agreement. Any signature delivered by a party by facsimile or electronic transmission (including email transmission of a PDF image) shall be deemed to be an original signature hereto.

16.14 Construction. The parties acknowledge that each party and its counsel have reviewed this Agreement and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement or any amendments, schedules or exhibits thereto.

16.15 Confidentiality; Sharing Information. Agent, each Lender and each Transferee shall hold all non-public information obtained by Agent, such Lender or such Transferee pursuant to the requirements of this Agreement in accordance with Agent's, such Lender's and such Transferee's customary procedures for handling confidential information of this nature; provided, however, Agent, each Lender and each Transferee may disclose such confidential information (a) to its examiners, Affiliates, outside auditors, counsel and other professional advisors, (b) to Agent, any Lender or to any prospective Transferees, and (c) as required or requested by any Governmental Body or representative thereof or pursuant to legal process; provided, further that (i) unless specifically prohibited by Applicable Law, Agent, each Lender and each Transferee shall use its reasonable best efforts prior to disclosure thereof, to notify the applicable Loan Party of the applicable request for disclosure of such non-public information (A) by a Governmental Body or representative thereof (other than any such request in connection with an examination of the financial condition of a Lender or a Transferee by such Governmental Body) or (B) pursuant to legal process and (ii) in no event shall Agent, any Lender or any Transferee be obligated to return any materials furnished by any Loan Party other than those documents and instruments in possession of Agent or any Lender in order to perfect its Lien on the Collateral once the Obligations have been paid in full and this Agreement has been terminated. Each Loan Party acknowledges that from time to time financial advisory, investment banking and other services may be offered or provided to such Loan Party or one or more of its Affiliates (in connection with this Agreement or otherwise) by any Lender or by one or more Subsidiaries or Affiliates of such Lender and each Loan Party hereby authorizes each Lender to share any information delivered to such Lender by such Loan Party and its Subsidiaries pursuant to this Agreement, or in connection with the decision of such Lender to enter into this Agreement, to any such Subsidiary or Affiliate of such Lender, it being understood that any such Subsidiary or Affiliate of any Lender receiving such information shall be bound by the provisions of this Section 16.15 as if it were a Lender hereunder. Such authorization shall

survive the repayment of the other Obligations and the termination of this Agreement. Notwithstanding any non-disclosure agreement or similar document executed by Agent in favor of any Borrower or any of any Borrower's affiliates, the provisions of this Agreement shall supersede such agreements.

16.16 Publicity. Each Loan Party and each Lender hereby authorizes Agent to make appropriate announcements of the financial arrangement entered into among Loan Parties, Agent and Lenders, including announcements which are commonly known as tombstones, in such publications and to such selected parties as Agent shall in its sole and absolute discretion deem appropriate.

16.17 Certifications From Banks and Participants; USA PATRIOT Act.

(a) Each Lender or assignee or participant of a Lender that is not incorporated under the Laws of the United States of America or a state thereof (and is not excepted from the certification requirement contained in Section 313 of the USA PATRIOT Act and the applicable regulations because it is both (i) an affiliate of a depository institution or foreign bank that maintains a physical presence in the United States or foreign country, and (ii) subject to supervision by a banking authority regulating such affiliated depository institution or foreign bank) shall deliver to Agent the certification, or, if applicable, recertification, certifying that such Lender is not a "shell" and certifying to other matters as required by Section 313 of the USA PATRIOT Act and the applicable regulations: (1) within ten (10) days after the Closing Date, and (2) as such other times as are required under the USA PATRIOT Act.

(b) The USA PATRIOT Act requires all financial institutions to obtain, verify and record certain information that identifies individuals or business entities which open an "account" with such financial institution. Consequently, Lender may from time to time request, and each Borrower shall provide to Lender, such Borrower's name, address, tax identification number and/or such other identifying information as shall be necessary for Lender to comply with the USA PATRIOT Act and any other Anti-Terrorism Law.

16.18 Anti-Terrorism Laws.

(a) Each Borrower represents and warrants that (i) no Covered Entity is a Sanctioned Person and (ii) no Covered Entity, either in its own right or through any third party, (A) has any of its assets in a Sanctioned Country or in the possession, custody or control of a Sanctioned Person in violation of any Anti-Terrorism Law; (B) does business in or with, or derives any of its income from investments in or transactions with, any Sanctioned Country or Sanctioned Person in violation of any Anti-Terrorism Law; or (C) engages in any dealings or transactions prohibited by any Anti-Terrorism Law.

(b) Each Borrower covenants and agrees that (i) no Covered Entity will become a Sanctioned Person, (ii) no Covered Entity, either in its own right or through any third party, will (A) have any of its assets in a Sanctioned Country or in the possession, custody or control of a Sanctioned Person in violation of any Anti-Terrorism Law; (B) do business in or with, or derive any of its income from investments in or transactions with, any Sanctioned

Country or Sanctioned Person in violation of any Anti-Terrorism Law; (C) engage in any dealings or transactions prohibited by any Anti-Terrorism Law or (D) use the Advances to fund any operations in, finance any investments or activities in, or, make any payments to, a Sanctioned Country or Sanctioned Person in violation of any Anti-Terrorism Law, (iii) the funds used to repay the Obligations will not be derived from any unlawful activity, (iv) each Covered Entity shall comply with all Anti-Terrorism Laws and (v) Borrowers shall promptly notify Agent in writing upon the occurrence of a Reportable Compliance Event.

16.19 Acknowledgement and Consent to Bail-In of EEA Financial Institutions. Notwithstanding anything to the contrary in any Loan Document or in any other agreement, arrangement or understanding among any such parties, each party hereto acknowledges that any liability of any EEA Financial Institution arising under any Loan Document, to the extent such liability is unsecured, may be subject to the write-down and conversion powers of an EEA Resolution Authority and agrees and consents to, and acknowledges and agrees to be bound by:

(a) the application of any Write-Down and Conversion Powers by an EEA Resolution Authority to any such liabilities arising hereunder which may be payable to it by any party hereto that is an EEA Financial Institution; and

(b) the effects of any Bail-in Action on any such liability, including, if applicable:

(i) a reduction in full or in part or cancellation of any such liability;

(ii) a conversion of all, or a portion of, such liability into shares or other instruments of ownership in such EEA Financial Institution, its parent undertaking, or a bridge institution that may be issued to it or otherwise conferred on it, and that such shares or other instruments of ownership will be accepted by it in lieu of any rights with respect to any such liability under this Agreement or any other Loan Document; or

(iii) the variation of the terms of such liability in connection with the exercise of the write-down and conversion powers of any EEA Resolution Authority.

[Signature Page Follows]

Each of the parties has signed the Agreement as of the day and year first above written.

VOLUNTEER ENERGY SERVICES INC.,
as a Borrower

By: Richard A. Curnutte Sr.
Name: Richard A. Curnutte, Sr.
Title: President

*Amended and Restated Revolving Credit
and Security Agreement
(Volunteer Energy Services, Inc.)*

NAI-1501321225

**PNC BANK, NATIONAL ASSOCIATION,
as Lender, Issuer and as Agent**

By: _____

Name: Todd Milenius

Title: Vice President

PNC Bank, National Association
1900 East Ninth Street, 9th Floor
Mail Stop B7-YB13-09-5
Cleveland, Ohio 44114
Attention: Todd Milenius

Revolving Commitment Percentage: 100.00%

*Amended and Restated Revolving Credit
and Security Agreement
(Volunteer Energy Services, Inc.)*

NAI-1501321225

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EXHIBIT C-5
Forecasted Financial Statements

(Under Seal)

SEE DOCUMENT FILED UNDER SEAL

EXHIBIT C-6
Credit Rating

(See Attached)

VOLUNTEER ENERGY SERVICES, INC.

D-U-N-S® 02-845-5926

Headquarters
790 Windmill Dr,
Pickerington, OH 43147
Website:
www.volunteerenergy.com

Phone 614 856-3128
Fax 614-856-3301

PREMIER GOLD

Purchase Date: 07/26/2018
Last Update Date: 07/23/2018
Attention: 266182920

Executive Summary

Company Info

Year Started 2001
CEO RICHARD CURNUTTE SR, PRES
Employees 65
Employees Here 50 at this location
Trade Styles VOLUNTEER ENERGY; VE

Predictive Analytics

Financial Stress Class



The Financial Stress Class of 2 for this company shows that firms with this class had a failure rate of 0.09% (9 per 10,000).

Financial Stress Class 2
Financial Stress Score 1,549
Highest Risk 1,001
Lowest Risk 1,875

Credit Score Class



The Credit Score class of 1 for this company shows that 1.10% of firms with this classification paid one or more bills severely delinquent.

Credit Score Class 1
Credit Score 595
Highest Risk 101
Lowest Risk 670

D&B Viability Rating

D&B Viability Rating

3 2 B G

Supplier Evaluation Risk Rating

Risk Rating



D&B Rating

D&B Rating

1R3

Composite Credit Appraisal



D&B PAYDEX®

Up to 24 month D&B PAYDEX

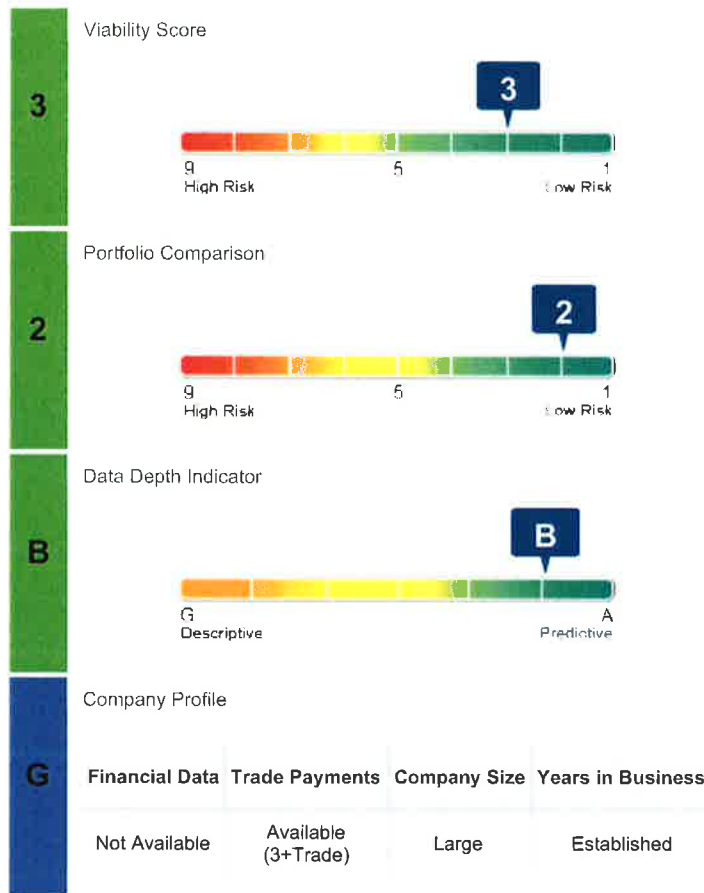


Up to 3 month D&B PAYDEX



Credit Limit Recommendation

164



Risk Category



Conservative Credit Limit \$90,000

Aggressive Credit Limit \$200,000

Supplier Risk Data

Supplier Evaluation Risk Rating



Probability of Ceased Operations/Becoming Inactive

The probability of ceased operations/becoming inactive indicates what percent of U.S. businesses is expected to cease operations or become inactive over next 12 months.

Probability of Supplier Ceased Operations/Becoming Inactive 2.1%

Average Probability of Supplier Ceased Operations/Becoming Inactive 5.6%

% of US Businesses with SER Rating 15%

Supplier Risk Score Analysis

Key Commentary

The business has a Supplier Evaluation Risk (SER) Rating that shows:

- Evidence of open liens

Business Information

145

Business Summary

Branch & Division YES
 Financing SECURED
 SIC 4911
 Electric services
 NAICS 221118
 Other Electric
 Power
 Generation
 History Status CLEAR

Credit Capacity Summary

D&B Rating

1R3

Composite Credit Appraisal



Prior D&B Rating 1R3

Rating Date 05/25/2016

Payment Activity (based on 13 experiences) USD

Average High Credit \$3,386

Highest Credit 20,000

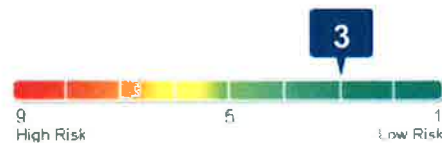
Total Highest Credit 37,300

D&B Viability Rating

The D&B Viability Rating uses D&B's proprietary analytics to compare the most predictive business risk indicators and deliver a highly reliable assessment of the probability that a company will no longer be in business within the next 12 months.

3

Viability Score

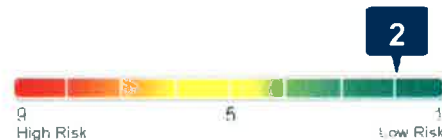


Compared to All US Businesses within D&B Database:

- Level of risk: **Low Risk**
- Businesses ranked 3 have a probability of becoming no longer viable: **3%**
- Percentage of businesses ranked 3: **15%**
- Across all US businesses, the average probability of becoming no longer viable: **14%**

2

Portfolio Comparison



Compared to all Businesses within the same MODEL SEGMENT:

Model Segment: **Established Trade Payments**

- Level of risk: **Low Risk**
- Businesses ranked 2 within this model segment have a probability of becoming no longer viable: **3%**
- Percentage of businesses ranked 2 within this model segment: **16%**
- Within this model segment, the average probability of becoming no longer viable: **5%**

B

Data Depth Indicator



Data Depth Indicator Details:

- ✓ Rich Firmographics

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- ✓ Extensive Commercial Trading Activity
- ✓ Basic Financial Attributes

Greater data depth can increase the precision of the D&B Viability Rating assessment.

You have the ability to influence the confidence of the viability assessment by asking the business to report more information to D&B at

<https://iupdate.dnb.com/iUpdate/>

G

Company Profile

Financial Data	Trade Payments	Company Size	Years in Business
Not Available	Available (3+Trade)	Large	Established

Company Profile Details:

- Financial Data: **Not Available**
- Trade Payments: **Available** (3+Trade)
- Business Size: **Large** (Employees:50+ or Sales: \$500K+)
- Years in Business: **Established** (5+)

Business History

Officers RICHARD CURNUTTE SR, PRES;
RICHARD CURNUTTE JR, SEC;
MARC RUNCK, CFO

Directors THE OFFICER(S) and Richard A Curnutte Jr, Larry Anderson and Jeff Horley.

As of 07/23/2018

The Ohio Secretary of State's business registrations file showed that Volunteer Energy Services, Inc was registered as a Corporation on March 2, 2001.

Business started 2001 by the officers. 100% of capital stock is owned by the officers.

RICHARD CURNUTTE SR born 1952. 2002-present active here.

RICHARD CURNUTTE JR born 1975. 2002-present active here.

MARC RUNCK born 1951. 2006-present active here.

AFFILIATES:

The following are related through common principals, management and/or ownership: Volli Communications, Inc., Pickerington, OH. DUNS #054785968. Operates as provider of telecommunications services.

Government Activity Summary

Activity Summary		Possible candidate for socioeconomic program consideration			
Borrower	No	Labor Surplus Area	N/A	Small Disadvantaged	No
Administrative Debt	No	Small Business	YES (2018)	HUB-Zoned Certified	No
Grantee	No	Women Owned	N/A	Historically Under Utilized	No
Party Excluded from Federal Programs	No	Minority Owned	N/A	Veteran Owned	No
Public Company	N/A	Disadvantaged Business Enterprise	No	Vietnam Veteran Owned	No
Congressional District	15	Ethnicity Classification	N/A	Disabled Owned	No
Contractor	Yes			Historical College Classification	N/A
Importer/Exporter	N/A				

The details provided in the Government Activity section are as reported to Dun & Bradstreet by the federal government and other sources.

Operations Data

As of 07/23/2018

Description: Provides electric services (100%).
Has 40,000 account(s). Check, wire transfer. Sells to retailers. Territory : United States.
Nonseasonal.

Employees: 65 which includes officer(s). 50 employed here.

Facilities: Owns 8,000 sq. ft. in a one story building.

Location: Central business section on side street.

Industry Data

SIC		NAICS	
Code	Description	Code	Description
49110000	Electric services	221118	Other Electric Power Generation

Family Tree

Branches Domestic

VOLUNTEER ENERGY
SERVICES, INC.;
(D-U-N-
S@:07-872-4933)
709 W ELLSWORTH
RD,
ANN ARBOR, MI
48108-3371

This list is limited to the first 25 branches, subsidiaries, divisions and affiliates, both domestic and international. Please use the Global Family Linkage Link above to view the full listing.

Financial Statements

Banking

November 2017:

Loans granted to low 8 figures on a secured basis. Now owing nothing. Collateral consists of accounts receivable.

Key Business Ratios (Based on 48 establishments)

D&B has been unable to obtain sufficient financial information from this company to calculate business ratios. Our check of additional outside sources also found no information available on its financial performance. To help you in this instance, ratios for other firms in the same industry are provided below to support your analysis of this business.

	This Business	Industry Median	Industry Quartile
Profitability			
Return on Sales	UN	8.8	UN
Return on Net Worth	UN	7.4	UN
Short Term Solvency			
Current Ratio	UN	0.9	UN
Quick Ratio	UN	0.4	UN
Efficiency			
Assets Sales	UN	348.0	UN
Sales / Net Working Capital	UN	11.9	UN
Utilization			
Total Liabs / Net Worth	UN	205.8	UN

Most Recent Financial Statement

As of 11/02/2017

Statement Source

Accountant: Fentress & Barnes, Columbus, Ohio.

On 11/02/2017, Marc Runck, V Pres, confirmed company name, address, principals, annual sales and operational information using D&B's web-based update method (iUpdate) at www.dnb.com.

Indicators

Public Filings Summary

The following data includes both open and closed filings found in D&B's database on this company

Record Type	No. of Records	Most Recent Filing Date
Judgment	0	
Lien	2	05/17/2016
Suit	1	08/08/2016
UCC	24	08/11/2017

Public Filings



Bankruptcy Judgment Lien Suit UCC

The following Public Filing data is for information purposes only and is not the official record. Certified copies can only be obtained from the official source.

Full Filings

Suits

Status	Pending	Latest Info Received	09/15/2016
Where Filed	SUMMIT COUNTY COMMON PLEAS COURTS, AKRON, OH	Docket No.	CV2016083411
Plaintiff	INVADO LLC	Status Attained	08/08/2016
Defendant	VOLUNTEER ENERGY SERVICES INC AND OTHERS	Date Filed	08/08/2016

If it is indicated that there are defendants other than the report subject, the lawsuit may be an action to clear title to property and does not necessarily imply a claim for money against the subject.

Liens

Amount	\$610	Latest Info Received	05/20/2016
Status	Open	Type	State Tax
Where Filed	ALLEGHENY COUNTY PROTHONOTARY, PITTSBURGH, PA	Status Attained	05/17/2016
Filed By	COMMONWEALTH OF PA DEPARTMENT OF REVENUE, HARRISBURG, PA	Date Filed	05/17/2016
against	VOLUNTEER ENERGY SERVICES INC.	Docket No.	201600008377
Amount	\$1,205	Latest Info Received	10/25/2012
Status	Open	Type	State Tax
Where Filed	FRANKLIN COUNTY COMMON PLEAS COURT, COLUMBUS, OH	Status Attained	05/31/2006
Filed By	STATE OF OHIO	Date Filed	05/31/2006
against	VOLUNTEER ENERGY SVC INC	Docket No.	2006JG018437

A lienholder can file the same lien in more than one filing location. The appearance of multiple liens filed by the same lienholder against a debtor may be indicative of such an occurrence.

UCC Filings

Collateral	Accounts receivable and proceeds - Assets and proceeds	Latest Info Received	08/12/2010
Filing No.	OH00143886008	Type	Original
Where Filed	SECRETARY OF STATE/UCC DIVISION, COLUMBUS, OH	Date Filed	07/23/2010
Secured Party	PNC BANK, NATIONAL ASSOCIATION, AS ADMINISTRATIVE AGENT, PITTSBURGH, PA		
Debtor	VOLUNTEER ENERGY SERVICES, INC.		
Collateral	Accounts receivable and proceeds - Assets and proceeds - Account(s) and proceeds	Latest Info Received	04/03/2012
Filing No.	20120820101	Type	Amendment
Original UCC Filed Date	07/23/2010	Date Filed	03/21/2012
Where Filed	SECRETARY OF STATE/UCC DIVISION, COLUMBUS, OH	Original Filing No.	OH00143886008
Secured Party	PNC BANK, NATIONAL ASSOCIATION, AS ADMINISTRATIVE AGENT, PITTSBURGH, PA		
Debtor	VOLUNTEER ENERGY SERVICES, INC.		
Collateral	Accounts receivable and proceeds - Assets and proceeds	Latest Info Received	12/02/2014
Filing No.	20143280153	Type	Amendment
Original UCC Filed Date	07/23/2010	Date Filed	11/21/2014
Where Filed	SECRETARY OF STATE/UCC DIVISION, COLUMBUS, OH	Original Filing No.	OH00143886008
Secured Party	PNC BANK, NATIONAL ASSOCIATION, AS ADMINISTRATIVE AGENT, PITTSBURGH, PA		

Debtor	VOLUNTEER ENERGY SERVICES, INC.		
Filing No.	20150480043	Latest Info Received	02/23/2015
Original UCC Filed Date	07/23/2010	Type	Continuation
Where Filed	SECRETARY OF STATE/UCC DIVISION, COLUMBUS, OH	Date Filed	02/17/2015
Secured Party	PNC BANK, NATIONAL ASSOCIATION, AS ADMINISTRATIVE AGENT, PITTSBURGH, PA	Original Filing No.	OH00143886008
Debtor	VOLUNTEER ENERGY SERVICES, INC.		
Filing No.	SR7726	Latest Info Received	10/03/2017
Original UCC Filed Date	07/23/2010	Type	Amendment
Where Filed	SECRETARY OF STATE/UCC DIVISION, COLUMBUS, OH	Date Filed	08/11/2017
Secured Party	PNC BANK, NATIONAL ASSOCIATION, AS ADMINISTRATIVE AGENT, PITTSBURGH, PA	Original Filing No.	OH00143886008
Debtor	VOLUNTEER ENERGY SERVICES, INC.		
Collateral	Accounts receivable and proceeds - Assets and proceeds	Latest Info Received	12/02/2014
Filing No.	OH00181187406	Type	Original
Where Filed	SECRETARY OF STATE/UCC DIVISION, COLUMBUS, OH	Date Filed	11/21/2014
Secured Party	PNC BANK, NATIONAL ASSOCIATION, PITTSBURGH, PA		
Debtor	VOLUNTEER ENERGY SERVICES, INC.		
Filing No.	SR7750	Latest Info Received	10/03/2017
Original UCC Filed Date	11/21/2014	Type	Amendment
Where Filed	SECRETARY OF STATE/UCC DIVISION, COLUMBUS, OH	Date Filed	08/11/2017
Secured Party	PNC BANK, NATIONAL ASSOCIATION, PITTSBURGH, PA	Original Filing No.	OH00181187406
Debtor	VOLUNTEER ENERGY SERVICES, INC.		
Filing No.	20080460116	Latest Info Received	03/04/2008
Original UCC Filed Date	02/01/2005	Type	Amendment
Where Filed	SECRETARY OF STATE/UCC DIVISION, COLUMBUS, OH	Date Filed	02/14/2008
Secured Party	NATIONAL CITY BUSINESS CREDIT, INC., AS AGENT, CLEVELAND, OH	Original Filing No.	OH00086057950
Debtor	VOLUNTEER ENERGY SERVICES, INC and OTHERS		
Filing No.	20093200232	Latest Info Received	12/01/2009
Original UCC Filed Date	02/01/2005	Type	Amendment
Where Filed	SECRETARY OF STATE/UCC DIVISION, COLUMBUS, OH	Date Filed	11/13/2009
Secured Party	NATIONAL CITY BUSINESS CREDIT, INC., AS AGENT, CLEVELAND, OH PNC BANK, NATIONAL ASSOCIATION, AS AGENT, CLEVELAND, OH	Original Filing No.	OH00086057950
Debtor	VOLUNTEER ENERGY SERVICES, INC and OTHERS		
Filing No.	20093210144	Latest Info Received	11/30/2009
Original UCC Filed Date	02/01/2005	Type	Continuation
Where Filed	SECRETARY OF STATE/UCC DIVISION, COLUMBUS, OH	Date Filed	11/16/2009
Secured Party	NATIONAL CITY BUSINESS CREDIT, INC., AS AGENT,	Original Filing No.	OH00086057950

	PNC BANK, NATIONAL ASSOCIATION, AS AGENT, CLEVELAND, OH		
Debtor	VOLUNTEER ENERGY SERVICES, INC and OTHERS		
Filing No.	20102070105	Latest Info Received	08/12/2010
Original UCC Filed Date	02/01/2005	Type	Amendment
Where Filed	SECRETARY OF STATE/UCC DIVISION, COLUMBUS, OH	Date Filed	07/23/2010
Secured Party	NATIONAL CITY BUSINESS CREDIT, INC., AS AGENT, CLEVELAND, OH PNC BANK, NATIONAL ASSOCIATION, AS ADMINISTRATIVE AGENT, PITTSBURGH, PA PNC BANK, NATIONAL ASSOCIATION, AS AGENT, CLEVELAND, OH	Original Filing No.	OH00086057950
Debtor	VOLUNTEER ENERGY SERVICES, INC and OTHERS		
Filing No.	20102070106	Latest Info Received	08/12/2010
Original UCC Filed Date	02/01/2005	Type	Amendment
Where Filed	SECRETARY OF STATE/UCC DIVISION, COLUMBUS, OH	Date Filed	07/23/2010
Secured Party	NATIONAL CITY BUSINESS CREDIT, INC., AS AGENT, CLEVELAND, OH PNC BANK, NATIONAL ASSOCIATION, AS ADMINISTRATIVE AGENT, PITTSBURGH, PA PNC BANK, NATIONAL ASSOCIATION, AS AGENT, CLEVELAND, OH	Original Filing No.	OH00086057950
Debtor	VOLUNTEER ENERGY SERVICES, INC and OTHERS		
Collateral	Accounts receivable and proceeds - Account(s) and proceeds - Assets and proceeds	Latest Info Received	04/03/2012
Filing No.	20120820100	Type	Amendment
Original UCC Filed Date	02/01/2005	Date Filed	03/21/2012
Where Filed	SECRETARY OF STATE/UCC DIVISION, COLUMBUS, OH	Original Filing No.	OH00086057950
Secured Party	NATIONAL CITY BUSINESS CREDIT, INC., AS AGENT, CLEVELAND, OH PNC BANK, NATIONAL ASSOCIATION, AS ADMINISTRATIVE AGENT, PITTSBURGH, PA PNC BANK, NATIONAL ASSOCIATION, AS AGENT, CLEVELAND, OH		
Debtor	VOLUNTEER ENERGY SERVICES, INC and OTHERS		
Filing No.	20142590228	Latest Info Received	09/22/2014
Original UCC Filed Date	02/01/2005	Type	Continuation
Where Filed	SECRETARY OF STATE/UCC DIVISION, COLUMBUS, OH	Date Filed	09/16/2014
Secured Party	NATIONAL CITY BUSINESS CREDIT, INC., AS AGENT, CLEVELAND, OH PNC BANK, NATIONAL ASSOCIATION, AS ADMINISTRATIVE AGENT, PITTSBURGH, PA PNC BANK, NATIONAL ASSOCIATION, AS AGENT, CLEVELAND, OH	Original Filing No.	OH00086057950
Debtor	VOLUNTEER ENERGY SERVICES, INC and OTHERS		
Collateral	Accounts receivable and proceeds - Assets and proceeds	Latest Info Received	12/02/2014
Filing No.	20143280154	Type	Amendment

Date		Date Filed	11/21/2014
Where Filed	SECRETARY OF STATE/UCC DIVISION, COLUMBUS, OH	Original Filing No.	OH00086057950
Secured Party	NATIONAL CITY BUSINESS CREDIT, INC., AS AGENT, CLEVELAND, OH PNC BANK, NATIONAL ASSOCIATION, AS ADMINISTRATIVE AGENT, PITTSBURGH, PA PNC BANK, NATIONAL ASSOCIATION, AS AGENT, CLEVELAND, OH		
Debtor	VOLUNTEER ENERGY SERVICES, INC and OTHERS		
Filing No.	SR7721	Latest Info Received	10/03/2017
Original UCC Filed Date	02/01/2005	Type	Amendment
Where Filed	SECRETARY OF STATE/UCC DIVISION, COLUMBUS, OH	Date Filed	08/11/2017
Secured Party	NATIONAL CITY BUSINESS CREDIT, INC., AS AGENT, CLEVELAND, OH PNC BANK, NATIONAL ASSOCIATION, AS ADMINISTRATIVE AGENT, PITTSBURGH, PA PNC BANK, NATIONAL ASSOCIATION, AS AGENT, CLEVELAND, OH	Original Filing No.	OH00086057950
Debtor	VOLUNTEER ENERGY SERVICES, INC and OTHERS		
Collateral	RIGHTS, TITLE AND INTEREST and proceeds	Latest Info Received	04/01/2014
Filing No.	OH00174867691	Type	Original
Where Filed	SECRETARY OF STATE/UCC DIVISION, COLUMBUS, OH	Date Filed	03/28/2014
Secured Party	VECTREN ENERGY DELIVERY OF OHIO, INC., EVANSVILLE, IN		
Debtor	VOLUNTEER ENERGY SERVICES, INC.		
Collateral	SECURITY INTEREST and proceeds	Latest Info Received	05/23/2012
Filing No.	OH00158307261	Type	Original
Where Filed	SECRETARY OF STATE/UCC DIVISION, COLUMBUS, OH	Date Filed	05/11/2012
Secured Party	COLUMBIA GAS OF OHIO, INC., COLUMBUS, OH		
Debtor	VOLUNTEER ENERGY SERVICES, INC.		
Filing No.	20171000686	Latest Info Received	04/17/2017
Original UCC Filed Date	05/11/2012	Type	Continuation
Where Filed	SECRETARY OF STATE/UCC DIVISION, COLUMBUS, OH	Date Filed	04/10/2017
Secured Party	COLUMBIA GAS OF OHIO, INC., COLUMBUS, OH	Original Filing No.	OH00158307261
Debtor	VOLUNTEER ENERGY SERVICES, INC.		
Collateral	AGREEMENT and proceeds	Latest Info Received	04/10/2012
Filing No.	OH00157312877	Type	Original
Where Filed	SECRETARY OF STATE/UCC DIVISION, COLUMBUS, OH	Date Filed	04/04/2012
Secured Party	VECTREN ENERGY DELIVERY OF OHIO, INC., EVANSVILLE, IN		
Debtor	VOLUNTEER ENERGY SERVICES, INC.		
Filing No.	20170761032	Latest Info Received	03/20/2017
Original UCC Filed Date	04/04/2012	Type	Continuation
Where Filed	SECRETARY OF STATE/UCC DIVISION, COLUMBUS, OH	Date Filed	03/17/2017
Secured Party	VECTREN ENERGY DELIVERY OF OHIO, INC., EVANSVILLE, IN	Original Filing No.	OH00157312877
Debtor	VOLUNTEER ENERGY SERVICES, INC.		

Filing No.	OH00153310253	Received	
Where Filed	SECRETARY OF STATE/UCC DIVISION, COLUMBUS, OH	Type	Original
Secured Party	COLUMBIA GAS OF PENNSYLVANIA, INC., COLUMBUS, OH	Date Filed	10/05/2011
Debtor	VOLUNTEER ENERGY SERVICES, INC.		
Collateral	SECURITY INTEREST and proceeds	Latest Info Received	10/13/2011
Filing No.	OH00153310142	Type	Original
Where Filed	SECRETARY OF STATE/UCC DIVISION, COLUMBUS, OH	Date Filed	10/05/2011
Secured Party	COLUMBIA GAS OF OHIO, INC., COLUMBUS, OH		
Debtor	VOLUNTEER ENERGY SERVICES, INC.		
Filing No.	20162530482	Latest Info Received	09/12/2016
Original UCC Filed Date	10/05/2011	Type	Continuation
Where Filed	SECRETARY OF STATE/UCC DIVISION, COLUMBUS, OH	Date Filed	09/09/2016
Secured Party	COLUMBIA GAS OF OHIO, INC., COLUMBUS, OH	Original Filing No.	OH00153310142
Debtor	VOLUNTEER ENERGY SERVICES, INC.		

The public record items contained in this report may have been paid, terminated, vacated or released prior to the date this report was printed. Additional UCC and SLJ filings for this company can be found by conducting a more detailed search in our Public Records Database.

Commercial Credit Score

Summary

Credit Score Class



Incidence of Delinquent Payment

Among Companies with This Class	1.10%
Average Compared to All Businesses	10.20%
Credit Score Percentile	95
Credit Score	595
Number of Payment Experiences	13

Key Factors

- Evidence of open suits and liens

Notes:

- The Credit Score Class indicates that this firm shares some of the same business and payment characteristics of other companies with this classification. It does not mean the firm will necessarily experience delinquency.
- The Incidence of Delinquent Payment is the percentage of companies with this classification that were reported 91 days past due or more by creditors. The calculation of this value is based on D&B's trade payment database.
- The Credit Score Percentile reflects the relative ranking of a firm among all scorable companies in D&B's file.
- The Credit Score offers a more precise measure of the level of risk than the Class and Percentile. It is especially helpful to customers using a scorecard approach to determining overall business performance.

Credit Score Percentile Norms Comparison

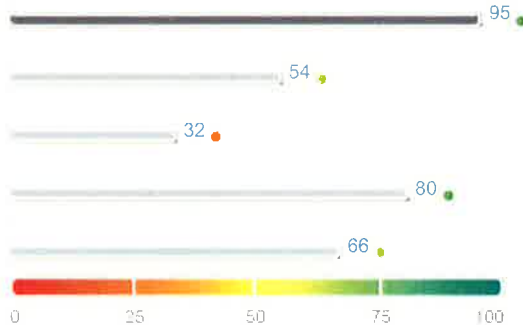
VOLUNTEER ENERGY SERVICES, INC.

Region (EAST NORTH CENTRAL)

Industry (INFRASTRUCTURE)

Employee Range (20-99)

Years in Business (11-25)



- Lower risk than other companies in the same region.
- Lower risk than other companies in the same industry.
- Lower risk than other companies in the same employee size range.
- Lower risk than other companies with a comparable number of years in business.

Financial Stress Score

Summary

Financial Stress Class



Financial Stress Score Percentile

Financial Stress National Percentile	88
Financial Stress Score	1549
Probability of Failure with This Score	0.09%
Failure per 10K	9/10,000
Average Failure Rate within D&B database	0.48%
Failure per 10K	48/10,000
Number of Payment Experiences	13

Key Factors

- UCC Filings reported.
- Composite credit appraisal is rated fair.
- Higher risk legal structure.

Notes:

- The Financial Stress Class indicates that this firm shares some of the same business and financial characteristics of other companies with this classification. It does not mean the firm will necessarily experience financial stress.
- The probability of failure shows the percentage of firms in a given percentile that discontinue operations with loss to creditors. The average probability of failure is based on businesses in D&B's database and is provided for comparative purposes.
- The Financial Stress National Percentile reflects the relative ranking of a company among all scorable companies in D&B's file.
- The Financial Stress Score offers a more precise measure of the level of risk than the Class and Percentile. It is especially helpful to customers using a scorecard approach to determining overall business performance.

Financial Stress Percentile Comparison

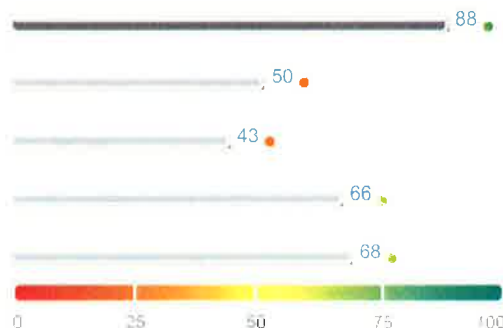
VOLUNTEER ENERGY SERVICES, INC.

Region
(East North Central)

Industry
(Infrastructure)

Employee Range
(20-99)

Years in Business
(11-25)



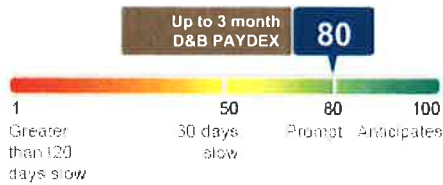
- Lower risk than other companies in the same region.
- Lower risk than other companies in the same industry.
- Lower risk than other companies in the same employee size range.
- Lower risk than other companies with a comparable number of years in business.

Advanced Paydex + CLR

D&B PAYDEX®

Shows the D&B PAYDEX scores as calculated up to 3 months and up to 24 months of payment experiences.

Up to 3 month D&B PAYDEX



When weighted by dollar amount, payments to suppliers average **Within terms**. Based on payments collected over last 3 months.

Up to 24 month D&B PAYDEX



When weighted by dollar amount, payments to suppliers average generally within terms. Based on payments collected up to 24 months.

When weighted by dollar amount, the industry average is 5 DAYS BEYOND terms.

- High risk of late payment (average 30 to 120 days beyond terms)
- Medium risk of late payment (average 30 days or less beyond terms)
- Low risk of late payment (average prompt to 30+ days sooner)

Payment Trend	unchanged *	Total Payment Experiences for the HQ	13	Highest Now Owing	\$20,000
Payments Within Terms	100%	Total Placed for Collection	0	Highest Past Due	\$0
Average High Credit	\$3,386	Largest High Credit	\$20,000		

* compared to payments three months ago

Credit Limit Recommendation

Risk Category



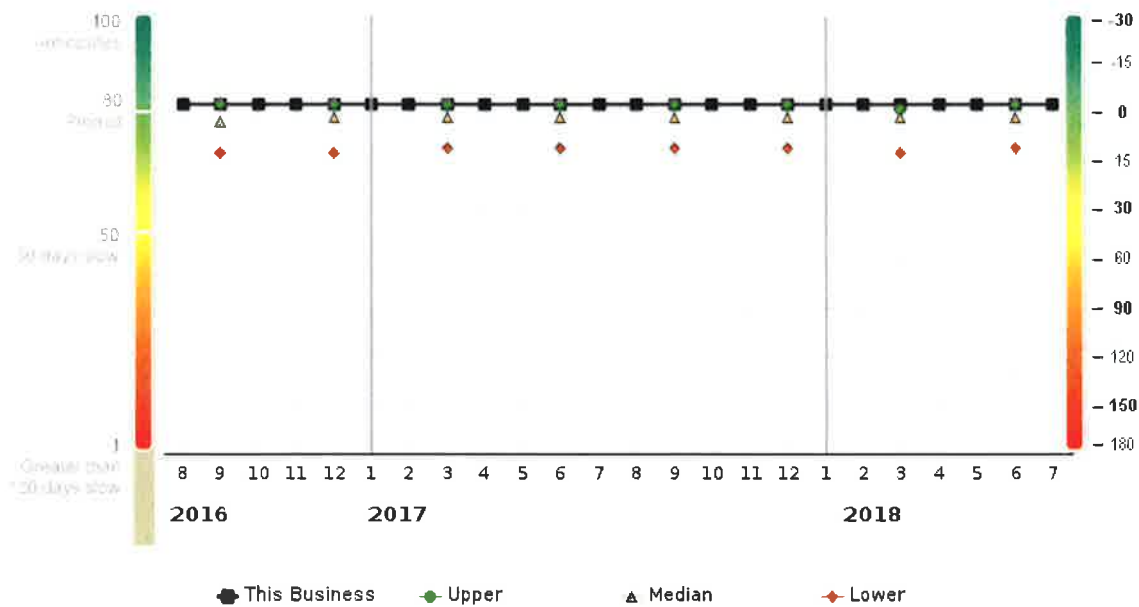
Recommendation Date	07/26/2018
Conservative Credit Limit	\$90,000
Aggressive Credit Limit	\$200,000

Key Factor

Risk is assessed using D&B's scoring methodology and is one factor used to create the recommended limits

PAYDEX Yearly Trend

Shows PAYDEX scores of this Business compared to the Primary Industry from each of the last four quarters. The Primary Industry is Electric services, based on SIC code 4911.



This Business	80	80	80	80	80	80	80	80	80	80	80	80	80	80	80	80	80	80	80	80	80	80	80
Industry Quartiles																							
Upper	80		80		80		80		80		80		80		80		79		80				
Median	76		77		77		77		77		77		77		77		77		77				
Lower	69		69		70		70		70		70		70		70		69		70				

Note

- Current PAYDEX® for this Business is 80, or equal to generally within terms.
- The 24 month high paydex is 80.0, or equal to GENERALLY WITHIN terms.
- The 24 month low paydex is 80.0, or equal to GENERALLY WITHIN terms.
- Industry upper quartile represents the performance of the payers in the 75th percentile.
- Industry lower quartile represents the performance of the payers in the 25th percentile.

Payment Habits

Credit Extended	% of Payments Within Terms	No. of Payment Experiences	Total Amount USD
Over \$100,000	0%	0	\$0
50,000-100,000	0%	0	0
15,000-49,999	100%	2	35,000
5,000-14,999	0%	0	0
1,000-4,999	0%	0	0
Under 1,000	100%	9	2,250

Based on up to 24 months of payments

Payment Summary

The Payment Summary section reflects payment information in D&B's file as of the date of this report.

There are 13 payment experiences in D&B's file, with 6 experiences reported during the last three month period. The highest Now Owes on file is \$20,000. The highest Past Due on file is \$0.

All Industries

Industries	Total Received	Total Amounts	Largest High Credit	Within Terms (%)	Days Slow (%)			
					0-30	31-60	61-90	90+
Telephone communictns	3	\$600	\$500	100	0	0	0	0
Misc business credit	3	300	50	100	0	0	0	0
Short-trm busn credit	2	35,000	20,000	100	0	0	0	0
Business consulting	1	750	750	100	0	0	0	0
Natnl commercial bank	1	500	500	100	0	0	0	0
Electric services	1	50	50	100	0	0	0	0
Misc publishing	1	50	50	100	0	0	0	0

Other Payment Categories

Category	Total Received	Total Dollar Amounts	Largest High Credit
Cash experiences	1	\$50	\$50
Payment record unknown	0	0	0
Unfavorable comments	0	0	0
Placed for Collection	0	0	0

Detailed Payment History

Date Reported	Paying Record	High Credit	Now Owes	Past Due	Last Sale within(months)
June 2018	Ppt	\$0	\$250	\$0	1
	Ppt	750	750	0	1
	Ppt	500	0	0	1
	Ppt	500	0	0	1
	Ppt	50	50	0	1
	Ppt	50	0	0	1
January 2018	Ppt	50	0	0	6-12
December 2017	(008)Cash own option	50	0	0	1
March 2017	Ppt	20,000	20,000	0	1
	Ppt	15,000	10,000	0	1
February 2017	Ppt	50	0	0	6-12
December 2016	Ppt	0	0	0	6-12
September 2016	Ppt	50	0	0	6-12

Lines shown in red are 30 or more days beyond terms

Each experience shown is from a separate supplier. Updated trade experiences replace those previously reported.

EXHIBIT C-7
Credit Report

(See Exhibit C-6 Previously Attached)

EXHIBIT C-8
Bankruptcy Information

NOT APPLICABLE

EXHIBIT C-9
Merger Information

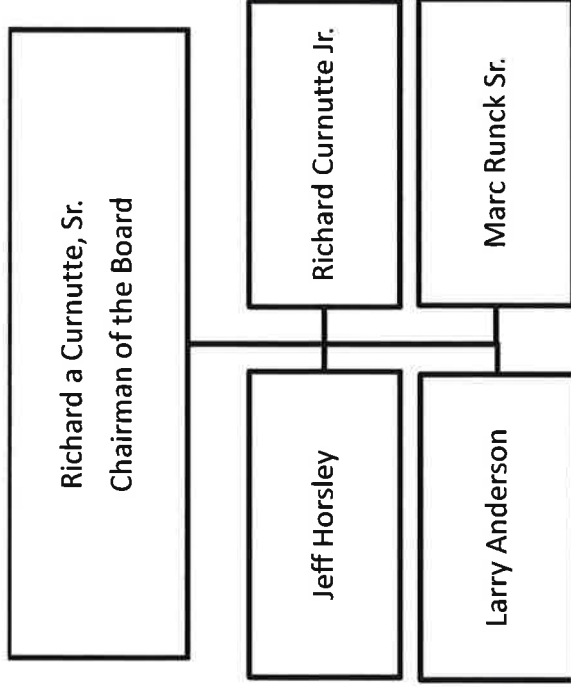
None

EXHIBIT C-10
Corporate Structure

(See Attached)

Volunteer Energy Services, Inc.

Board of Directors



Direct Reports

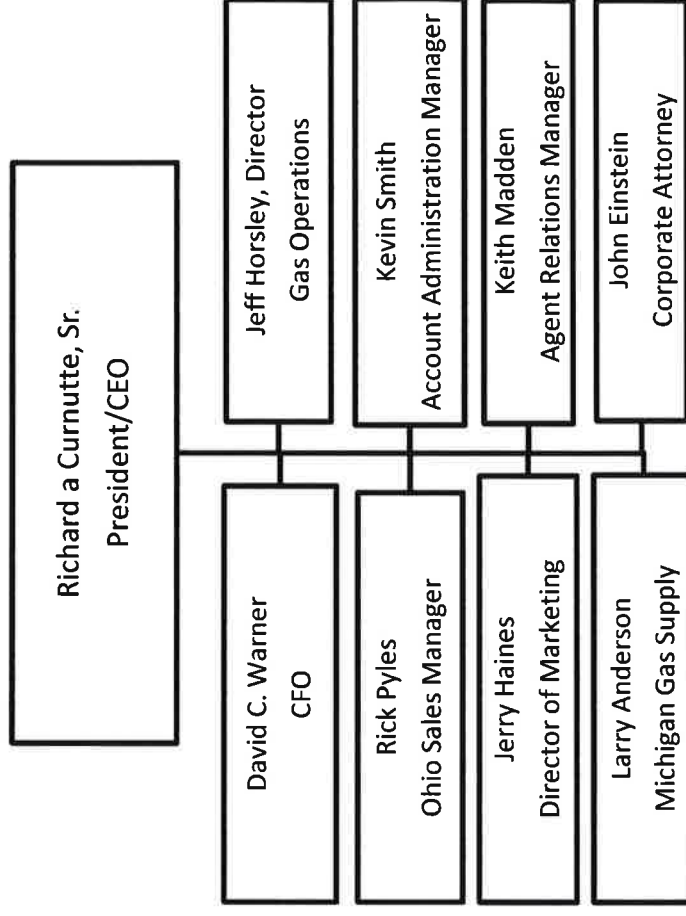


EXHIBIT D-1

Operations

A. General Requirements

Volunteer Energy Services, Inc. (VESI) will purchase natural gas and will supply and deliver natural gas to customers that sign a natural gas sales agreement with VESI. VESI will purchase and sell natural gas to customers under the existing rules and tariff requirements of Columbia Gas of Ohio (“COH”), Dominion East Ohio Gas (“DEO”), Duke Energy Ohio (“Duke”), and Vectren Energy Delivery of Ohio (“VEDO”) according to the rules and regulations of the Public Utilities Commission of Ohio (“PUCO”).

VESI currently delivers wholesale supplies of natural gas to customers behind the gas companies, COH, Duke, DEO, and VEDO.

B. Point of Delivery

The Point Delivery for natural gas for purposes of passing title and determining a Proposal price shall be the inlet side of the city gate meter for the various gas companies. VESI shall have full responsibility for arranging transportation to the city gate on a daily basis within the balancing and banking tolerances permitted by each gas company. All expenses, fees, fines or costs associated with imbalances on both the transmission system and the local gas company shall be paid by VESI.

C. Natural Gas Quality Specifications

Natural gas tendered to the various gas companies city gate shall meet the pipeline quality standards established by each interstate transmission company and each local gas company. VESI shall take full responsibility for meeting the quality standards for both the interstate pipeline(s) and the local gas companies. To the degree that any gas tendered by VESI fails to meet thermal values, or falls below the established quality standards for moisture, sulfur or contaminants, the full cost for such failure to comply with pipeline/distribution quality standards shall be paid by VESI.

D. Supply and Distribution Plan

Volunteer Energy Services, Inc. currently delivers to its COH and DEO markets using various supply sources. This includes Gulf Coast supply delivered into Columbia Gulf Transmission and Dominion Transmission, Appalachian Production and Supply Pool volumes. VESI also uses supply originations from ANR Pipeline, Texas Gas Transmission, Tennessee Gas Pipeline and Texas Eastern Transmission for market areas on COH’s system, which may be better served through these interstate pipelines.

VESI currently owns Firm Transportation capacity and transports on Columbia Gas Transmission (TCO) using Firm Transportation Service (FTS) agreements and Storage Service Transportation (SST) agreements. Volunteer Energy Services, Inc. also has contracts for Firm Storage Service (FSS) on TCO.

EXHIBIT D-2
Operations Expertise

(See Attached)



Since it has been in business, Volunteer Energy Services, Inc. ("VESI") has been engaged in all the activities described below. These activities shall continue in the future as VESI offer retail natural gas service.

Gas Supply Management Program

VESI's Gas Supply Management Program is custom tailored to the end-users needs, with service levels, pricing, and fee structure negotiated to meet each customer's specific requirements. In order to meet the goal and objectives as stated, VESI recommends establishing the natural gas energy management services for our customers as outlined below:

Gas Supply and Storage

VESI will evaluate interruptible, firm transportation options and storage arrangements on the LDC and upstream pipelines for each customer facility receiving gas supply from VESI.

VESI's natural gas supply strategy is focused on purchases of firm supplies under spot and long term arrangements directly from Ohio production areas, producers, supplemented with economical Gulf Coast production from various production areas and interstate pipelines. VESI currently owns and transports on Dominion Transmission and Columbia Gas Transmission (TCO) using Firm Transportation (FTS) agreements and Storage Service Transportation (SST) agreements. VESI also has contracts for Firm Storage Service (FSS) on TCO.

Firm Transportation/Capacity Release

VESI will continue to assess the availability of short term and long-term release of firm capacity rights on the interstate pipelines upstream of customer's facilities for our customers. In addition to monitoring of all relevant EBB's, VESI has established trading relationships with other marketers, LDC's and pipelines which have yielded discounted firm transportation via capacity release programs.

Requirement Estimates

VESI will prepare gas requirement forecasts and submit all necessary LDC and pipeline nominations. VESI will develop forecasting procedures that will provide adequate usage estimates and updates necessary to meet actual demand for VESI customers and to comply with pipeline and LDC balancing requirements as required.

Scheduling

VESI will do all necessary pipeline and LDC scheduling, dispatching and nominating required to deliver natural gas and to ensure that VESI customers have full advantage of any upstream pipeline discounts. VESI will schedule and monitor daily, all flowing gas on upstream pipelines. VESI shall have full responsibility for arranging transportation to the city gate on a daily basis within the balancing and banking tolerances permitted by the various gas companies. All expenses, fees, fines,



or costs associated with imbalances on both the interstate transmission system and the local gas companies shall be paid by VESI.

Customized Customer Reports

In conjunction with the performance review meetings with customers, various reports will be prepared for customers use. These reports can include: cost savings as compared to published Index and/or LDC's rates, consumption history, price projections for budgeting, etc.

Invoicing

VESI will provide a monthly invoice to each customer in a timely fashion, with a usage breakdown by account. Detailed information will be supplied regarding natural gas supplied and the appropriate cost of those supplies as per the natural gas sales agreement with each customer. VESI will reconcile volumetric consumption and transportation charges with the applicable utility delivery statements. VESI will provide savings analysis on a monthly basis to each GTS customer.

Customer Complaints

VESI provides a toll free number for customers inquires. VESI will respond to customer inquiries and complaint in accordance with Commission rules adopted pursuant to Section 4929.22 of the Revised Code and contained in Chapter 4901:1-29 of the Ohio Administrative Code.

Pricing

VESI will present various pricing options for potential VESI customers. Practical consideration (such as base load expectations, peak day usage, availability of spot gas, and transportation alternatives) and commercial factors (alternative fuels, winter price spikes, tariff costs, long term gas market trends, etc.) will impact the pricing selection.

Price options VESI can provide now or in the future for customers are:

1. Fixed price for an established term
2. Fixed price with periodic adjustments tied to market tracking mechanism
3. "Cost Plus" methodology
4. NYMEX related pricing
5. Indexed pricing
6. Combinations of the above

The primary objectives of VESI is to provide reliable, cost effective natural gas supplies and services, to insure that customers receive direct benefits from all transport discounts including capacity release utilization. VESI desires to become a supply partner and to work with customers to achieve savings, supply security, and competitive portfolio pricing that meets the customer's needs and expectations. VESI desires to be long-term energy partner with each and every customer.

EXHIBIT D-3

Key Technical Personnel

(See Attached)



Richard A. Curnutte Sr. - Rick is President of Volunteer Energy Services, Inc. Rick participated in the re-formation of Volunteer Energy Services, Inc. in March of 2001. Rick was named President of the new company and began serving customers in May of 2001. Volunteer Energy Services, Inc.'s main focus is arranging for natural gas supplies and working with Energy Cooperatives and non-profit Buyers Groups.

Rick joined Volunteer Energy Corporation as Vice President, Sales/Marketing in 1995. Rick participated in the formation of Volunteer Energy Services, Inc. with the Williams Companies and was named President in 1996. Volunteer Energy Corporation and Volunteer Energy Services, Inc. was sold to First Energy Solutions in November of 1998.

Before joining Volunteer Energy Services, Inc. Rick was Principal/Vice President, Sales/Marketing for Broad Street Oil & Gas (BSO&G). BSO&G was later sold to Utilicorp/Aquilla Energy. He has also held management positions with Unicorp Energy and Yankee Gas Resources/Access Energy/Enron Energy Services.

Prior to entering the natural gas business he was Director of Energy Management for Wendy's International. As Corporate Energy Manager for Wendy's, he was responsible for energy management for 1200 corporate owned Wendy's restaurants throughout the United States. While at Wendy's, Rick transacted the nation's first commercial third party natural gas purchase by buying natural gas for 66 Wendy's and Sister's Chicken & Biscuits restaurants on the Columbia Gas of Ohio system.

Before Wendy's Rick was Energy Coordinator for Mid-Ohio Regional Planning Commission (MORPC) of Columbus, Ohio. Rick was responsible for administration of the Department of Energy's/Ohio Department of Development weatherization programs for MORPC/Franklin County Commissioners.

Rick has over 20 years' experience in the natural gas industry dealing with the aggregation of residential/commercial and Industrial accounts throughout the United States.

Rick attended Trevecca Nazarene University in Nashville, Tennessee where he earned a B.A. degree in Social Sciences with a minor in economics.

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Jeffrey M. Horsley - Mr. Horsley is General Manager and manages Volunteer Energy Services, Inc.'s supply portfolio. His current responsibilities include assisting markets with procurement of natural gas supplies, interstate transportation agreements and management of the Gas Operations activities. Mr. Horsley was the Director of Energy Supply and Operations for The Energy Cooperative (TEC). Mr. Horsley also served as Director of Gas Operations for Volunteer Energy Corporation (VEC). During his tenure at TEC and VEC, Mr. Horsley was responsible for the administrative setup of the Ohio Schools Council natural gas management services program, which included the tracking of volumes, savings reports, aggregated billing and utility invoice auditing. Mr. Horsley has also held operational management positions with Broad Street Oil and Gas and Enron (Access Energy).

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Tina M. Perkins - Mrs. Perkins is an Operations Analyst, whose current focus is on the account management and nomination needs of the Columbia Gas Distribution Companies, including COH, as well as the Columbia Gas Transmission and Columbia Gulf Transmission interstate markets. Mrs. Perkins had held operational positions with The Energy Cooperative (TEC), Volunteer Energy Corporation (VEC) and Broad Street Oil and Gas (Utilicorp/Energy One.) During her tenure at TEC and VEC, Mrs. Perkins was responsible for the account management, nominations and billing for the Ohio School Council natural gas management service program.

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Brenda G. Hammons - Mrs. Hammons is an Operations Analyst. Her current focus is on the account management and nomination needs of the Dominion Distribution Companies, including the Dominion East Ohio and Dominion West Ohio gas companies, as well as the Dominion interstate pipeline market areas. Mrs. Hammons has held operational positions with The Energy Cooperative (TEC), Volunteer Energy Corporation (VEC) and NGO Development. During her tenure at TEC and VEC, Mrs. Hammons was involved in the management of over 70 school districts for the Ohio School Council natural gas management service program.

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Summary: Application for Renewal of Certification as a Competitive Retail Natural Gas Supplier electronically filed by Mr. John L Einstein IV, Esq. on behalf of Volunteer Energy Services, Inc.