

**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549**

FORM 10-K

(Mark one)

ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

For the fiscal year ended September 30, 2015

TRANSITION REPORT UNDER SECTION 13 OR 15 (d) OF THE SECURITIES EXCHANGE ACT OF 1934

For the Transition period from _____ to _____

Commission File Number: 001-33937

Live Ventures Incorporated

(Exact Name of Registrant as Specified in Its Charter)

Nevada

(State or Other Jurisdiction of Incorporation or Organization)

85-0206668

(IRS Employer Identification No.)

325 E Warm Springs Road, Suite 102, Las Vegas, Nevada

(Address of principal executive offices)

89119

(Zip Code)

Registrant's telephone number, including area code: **(702) 939-0231**

Securities registered under Section 12(b) of the Exchange Act: None

Securities registered under Section 12(g) of the Exchange Act:

Common Stock, \$.001 Par Value

(Title of Class)

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act. Yes No

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or Section 15(d) of the Act. Yes No

Indicate by check mark whether the registrant: (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes No

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web Site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files). Yes No

Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K is not contained herein, and will not be contained, to the best of registrant's knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer or a smaller reporting company. See the definitions of "large accelerated filer", "accelerated filer" and "smaller reporting company" in Rule 12b-2 of the Exchange Act.

Large accelerated filer

Accelerated filer

Non-accelerated filer (Do not check if a smaller reporting company)

Smaller reporting company

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act). Yes No

The aggregate market value of the registrant's common stock held by non-affiliates computed based on the closing sales price of such stock on March 31, 2015 was \$11,217,554.

The number of shares outstanding of the registrant's common stock, as of December 31, 2015, was 16,909,933 shares.

DOCUMENTS INCORPORATED BY REFERENCE

None

LIVE VENTURES INCORPORATED

FORM 10-K

For the year ended September 30, 2015

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Forward-Looking Statements

This Annual Report on Form 10-K may include certain “forward-looking statements” within the meaning of the Private Securities Litigation Reform Act of 1995. We may also make forward-looking statements in other reports filed with the Securities and Exchange Commission (“the SEC”), in materials delivered to our stockholders, in press releases, or in oral or written statements made by our management. These forward-looking statements, which are often characterized by the terms “may,” “believes,” “projects,” “expects,” “plans”, or “anticipates,” do not reflect historical facts but instead are based on our current assumptions and predictions regarding future events, such as business and financial performance. Specific forward-looking statements contained in this Annual Report include, but are not limited to, our (i) belief in the continued growth of internet usage, particularly via mobile devices, and demand for web-based marketing; (ii) belief in the continued growth in the demand for local search and information, (iii) belief that small and medium businesses will continue to outsource their online marketing efforts to third parties; (iv) belief that we can cost-effectively expand into other cities due to the scalability of the LiveDeal.com platform; (v) belief that the cash on hand and additional cash generated from operations together with potential sources of cash through issuance of debt or equity will provide the company with sufficient liquidity for the next 12 months; and (vi) belief that the outcome of pending legal proceedings will not have a material adverse effect on business, financial position and results of operations, cash flow or liquidity.

Forward-looking statements involve risks, uncertainties and other factors, which may cause our actual results, performance or achievements to be materially different from those expressed or implied by such forward-looking statements. Some factors and risks that could so affect our results and achievements include the risk factors set forth below under the heading Item 1A. “Risk Factors.” Readers should carefully review such risk factors as they identify certain important factors that could cause actual results to differ materially from those in the forward-looking statements and from historical trends. Those risk factors are not exclusive and are in addition to other factors and risks (i) that are discussed elsewhere in this Annual Report, in our filings with the SEC, and in materials incorporated therein by reference, (ii) that apply to companies generally, or (iii) that we are currently unable to identify or quantify or that we currently deem immaterial. In addition, the foregoing factors and risks may affect generally our business, results of operations and financial position.

Forward-looking statements speak only as of the date the statement was made. We do not undertake and specifically decline any obligation to update any forward-looking statements.

Any information contained on our website (www.live-ventures.com) or any other websites referenced in this Annual Report are not a part of this Annual Report.

PART I

ITEM 1. Business

Our Company

Live Ventures Incorporated is a holding company for diversified businesses. Commencing in fiscal year 2015, we began a strategic shift in our business plan away from providing online marketing solutions for small and medium business to acquiring profitable companies in various industries that have demonstrated a strong history of earnings power. Prior to that shift, we primarily promoted online marketing solutions to small and medium businesses to help them boost customer awareness, gain visibility and manage their online presence under our Velocity Local™ brand. In 2013 we launched LiveDeal.com, real-time “deal engine” that connects restaurants across the United States and consumers via an platform. The LiveDeal.com platform targets restaurants in cities across the United States to help them use the platform to attract new customers. In addition, through our subsidiary, ModernEveryday, we maintain an online consumer products retailer.

We continue to actively develop, revise and evaluate our products, services and our marketing strategies in our businesses. As a result of the shift in our strategy, as of the fiscal year ended September 30, 2015, we decided to cease operating Live Goods, DealTicker and we discontinued our suite of online presence marketing products and solutions under the Velocity Local™ brand. Due to the shift in our business to diversifying our operations by acquiring businesses in several industries, we expect that revenues from our online marketplace business segment and our legacy products will be continue to be diluted in the coming months and years.

Under the Live Ventures brand we seek opportunities to acquire profitable and well-managed companies. We will work closely with consultants who will help us identify target companies that fit within the criteria we have established for opportunities that will provide synergies with our businesses.

Products and Services

Manufacturing and Industrial Products Segment

Marquis Industries, Inc.

In July 2015, we acquired a majority interest in Marquis Industries, Inc., a Georgia corporation, through our partially-owned subsidiary, Marquis Affiliated Holdings LLC. Marquis Industries is a leading carpet manufacturer and a manufacturer of innovative yarn products, as well as a reseller of hard surface flooring products. Over the last decade, Marquis has been an innovator and leader in the value-oriented polyester carpet sector, which is currently the market’s fastest-growing fiber category. We focus on the residential, niche commercial, and hospitality end-markets and serve over 2,000 customers.

Since its founding in 1990, Marquis has built a strong reputation for outstanding value, styling, and customer service. Its innovation has yielded products and technologies that differentiate its brands in the flooring marketplace. Marquis’s state-of-the-art operations enable high quality products, unique customization, and exceptionally short lead-times. Furthermore, the Company has recently invested in additional capacity to grow several attractive lines of business, including printed carpet and yarn extrusion. Through its A-O Division, utilizes its state-of-the-art yarn extrusion capacity to market monofilament textured yarn products to the artificial turf industry.

We operate our business through 14 divisions, each specializing in a distinct area of the business. Best Buy Flooring Source is the largest of all of the operating divisions with sales to over 2,000 carpet dealers. The following is a breakdown of each division and the specialized products sold:

Division	Products and/or Services
Best Buy flooring Source	All forms of carpets to dealers
Marquis Carpet	Carpet products to home centers
Best Buy Hard surface	Hard surface products manufactured by third parties to dealers
A-O Industries	Monofilament nylon, polypropylene and polyethylene yarns for the outdoor turf industry
Omega Pattern Works	Specialty printed carpet to the entertainment industry (bowling alleys, fund centers, movie theaters, casinos)
Astro Carpet Mills	Specialty printed carpet to the entertainment industry and artificial turf
Artisans Hospitality	Carpets to commercial and hospitality markets
Artisans Carpet	Carpets to carpet distributors
Trendsetters Rug	Development stage – printed carpets for educational markets
Dalton Carpet Depot	Sells specials and off grade carpet products to dealers
M&M Fibers	Extrusion carpet fiber division supplying raw material to Marquis
Quantum Textiles	Internal twisting and heat set yarn plant – some commission work for local mills
B&H Tufters	Internal tufting operations

Products

Carpets & Rugs

Marquis is a top 10 residential carpet manufacturer in the US and also produces innovative commercial products. Marquis has 21 running line styles offering outstanding quality and value. It also offers special value in polyester styles and residential nylon roll buy. Beginning in 2014, Marquis offered eight new carpet styles with 6.8 twists or better, six styles in ¼ gauge construction and to with a 1/8 gauge construction. These styles have some of the best performance ratings in the industry.

Hard Surfaces

In the past 10 years, Marquis has developed one of the strongest and most competitive, high styled hard surface lines on the market. The Best Buy Hard Surface running line is a mainstream line up of high styled luxury vinyl tile, several unique laminates and hand scraped engineered wood along with six individual series of vinyl. Best Buy Hard Surface also features hundreds of rolls of vinyl specials at promotional prices.

Yarns

Through it's A-O Division, Marquis uses state-of-the-art yarn extrusion capacity to market monofilament textured yarn products to the artificial turf industry.

Industry and Market

Marquis is a significant flooring manufacturer within a fragmented industry composed of a wide variety of companies from small privately held firms to large multinationals. In 2013, the US floor covering industry had an estimated \$20.0 billion in sales, up 6.6 % over 2012's sales of \$18.8 billion, which was an increase of 4.8% over 2011 sales of \$17.9 billion. The US market represents only about 9% of world floor covering sales, which were estimated to be \$208 billion in 2012.

Flooring covering sales are influenced by the homeowner remodeling and residential builder markets, existing home sales and housing starts, average house size and home ownership. In addition, the level of sales in the floor covering industry is influenced by consumer confidence, spending for durable goods, the condition of residential and commercial construction, and overall strength of the economy.

Our Market

Carpet and Rugs

The carpet and rug industry had shipments of \$10.4 billion in 2013 in the U.S., up 6.5% from 2012. The industry has two primary markets, residential and commercial, with the residential market making up the largest portion of the industry. The industry has two primary-sub-markets, replacement and new construction, with replacement being the significant industry factor. Approximately 60% of industry shipments are made in response to residential replacement demand.

Residential products consist of broadloom carpets and rugs in a broad range of styles, colors and textures. Commercial products consist primarily of broadloom carpet and modular carpet tile for a variety of institutional applications such as office buildings, restaurant chains, schools and other commercial establishments. The carpet industry also manufactures carpet for the automotive, recreational vehicle, small boat and other industries.

The Carpet and Rug Institute (the "CRI") is the national trade association representing carpet and rug manufacturers. Information compiled by the CRI suggests that the domestic carpet and rug industry is comprised of fewer than 100 manufacturers, with a meaningful percentage of the industry's production concentrated in a limited number of manufacturers focused on the lower end of the price curve.

Hard Surfaces

Hard flooring surfaces such as ceramic, vinyl, hardwood, stone, and laminate have shipments of \$9.6 billion in 2013 in the U.S., up 6.8% from 2012. As with carpet and rugs, the market is split between residential / commercial and replacement / new construction with residential replacement being the largest segment of the market.

Synthetic Turf

Northwest Georgia has become host to a relative of the carpet industry -a thriving synthetic turf industry. Early versions of fake grass, in domed and open-air sports stadiums, used to be referred to as "carpet" by the athletes who played upon it. Today it's more like a manmade organism, with advanced underlay, cushioning and drainage systems. AstroTurf, the granddaddy of artificial turf, is headquartered in Dalton, GA. Other major turf players in Georgia include Challenger Industries, Controlled Products, Synthetic Turf Resources, and Grass-Tex. Marquis, through its A-O Industries division, has developed significant yarn extrusion expertise and services the synthetic turf industry through the sale of highest quality yarns. Marquis is the only company in the industry able to efficiently perform certain texturizing processes that are valued by turf manufacturers.

Competition

Marquis is a fully integrated carpet mill, and as a result it is able to produce carpet at the lowest cost possible for its target price point. Marquis offers a one stop shop for soft and hard surface products, allowing its customers to save time and receive exceptional service. The company offers innovative products and has quick turnaround times turning a new product in two weeks from conception to delivery. The principal methods of competition are service, quality, price, product innovation and technology. Marquis' lean operating structure plus investments in manufacturing equipment, computer systems and marketing strategy contribute to its ability to provide exceptional value on the basis of performance, quality, style and service, rather than just competing on price.

Raw Materials and Suppliers

Our suppliers include Honeywell, DAK, Global Backing and Mattex. We believe that we will have access to an adequate supply of raw material on satisfactory commercial terms for the foreseeable future. We are not dependent on any one supplier.

Customers

Marquis sells products to flooring dealers, home centers, other flooring manufacturers and directly to the end user. Approximately 70% of sales are to a network of over 2,000 flooring dealers across several different end markets, geographies, and product lines. Management believes that the dealer market is the most profitable market for its products because it's a diversified customer base that values innovation, style and service. Dealer networks typically allow the Company to achieve higher margin, lower volume accounts. We have only one customer whose sales represent more than 10% of Marquis' total revenues. As a result we are not dependent on any one customer to sustain our revenue. Although we also sell our products to a limited number of retailers, sales to those retailers make up a very small percentage of Marquis' revenue.

Manufacturing

Marquis has a manufacturing facility with state-of-the-art equipment in all phases of its vertically integrated production, from extrusion of yarn to yarn processing to tufting carpet. Marquis manufactures high quality products and offer unique customization with exceptionally short lead-times. Marquis has recently invested in new, efficient equipment to expand its yarn extrusion capacity to enter new markets. The new equipment allows Marquis to reduce production costs and increase margins. Marquis has existing capacity to grow sales by 25% without additional investment.

Marketing

The Company has a team of 23 full-time salespeople who constantly deepen customer relationships throughout its markets.

Online Marketplace Platform Segment

LiveDeal.com

In September 2013, we launched LiveDeal.com. LiveDeal.com is a real-time "deal engine" connecting restaurants with consumers. LiveDeal.com provides marketing solutions to restaurants to boost customer awareness and merchant visibility on the Internet. Restaurants can sign up to use the LiveDeal platform at our website.

Highlights of LiveDeal.com include:

- an intuitive interface enabling restaurants to create limited-time offers and publish them immediately, or on a preset schedule that is fully customizable;
- state-of-the-art scheduling technology giving restaurants the freedom to choose the days, times and duration of the offers, enabling them to create offers that entice consumers to visit their establishment during their slower periods;

We were best known for migrating print yellow pages to the Internet in 1994 and began to develop the model for LiveDeal.com after having worked closely with well-known publishers in the daily deal market. In mid-2013, we tested the beta platform in a number of cities, and the model has been well received by restaurants, consumers, and various restaurant associations.

During fiscal 2014 we acquired three businesses that offer consumer products. We incorporated the sale of consumer products into our livedeal.com platform to increase our product offering. Below is a brief description of the businesses purchased in fiscal 2014:

Modern Everyday, Inc.,

Modern Everyday, Inc. (“MEI”), acquired in August 2014, has both a retail location and a web presence providing consumers with products that range from kitchen and dining products, apparel and sporting goods to children's toys and beauty products. Modern Everyday also has proprietary software that will give us the capability to track products and predict consumer behavior and spending habits.

DA Stores Asset Acquisition

On March 7, 2014, Live Goods acquired substantially all of the assets of DA Stores, LLC, a furniture retailer, which included inventory and equipment, furniture, software, hardware, and domain names. As of the fiscal year ended September 30, 2015, we decided to cease operating Live Goods.

DealTicker™

On May 6, 2014, Live Goods acquired DealTicker, an online platform company in the retail industry offering discounted products and services in the US and Canada. This acquisition increased our ability to sell consumer goods online. For strategic reasons, we closed the operations of DealTicker.

Promotional Marketing

In November 2012, we commenced the sale of marketing tools that help local businesses manage their online presence under what was previously our Velocity Local™ brand, which we refer to as online presence marketing. In September 2015, we sold all of the assets of Velocity Local, and discontinued the business.

Our target customers were SMB owners who work long hours to deliver real value to their customers in their own communities that do not have the time or expertise to develop the powerful, multi-faceted, online marketing and advertising programs necessary for successful online marketing. We sourced local special deals and activities for SMBs. We offered our clients a solution that utilizes our business channels to market our clients’ products and services to potential customers.

Prior to our launch of LiveDeal.com, our business strategy included partnering established strategic publishing partners to publish and sell our client’s deals in exchange for a share of the revenue. We had entered into sourcing agreements with several reputable publishers who have large user bases, including Travelzoo, Google Local, and Amazon, and act as an intermediary to connect SMBs to our publishing partners. Our business relied in part on the ability of our partners to display our clients’ deals to a large, relevant audience and to sell the offers. However, with the launch of LiveDeal.com, we focused our promotional marketing efforts and offer a substantial portion of those products and services through *our* own proprietary platform.

Marketing

General. We rely on telemarketing and online lead generation to drive customer acquisition. We have created our own telemarketing sales team which works with highly automated technology and specializes in creating, deploying and managing telemarketing campaigns quickly and efficiently. We believe that our telemarketing structure enables us to build and scale sales programs quickly.

We have long-standing relationships with data and lead providers, which enable us to source high quality leads and to focus our telemarketing efforts toward the demographics we believe most likely to result in long-term customers. We primarily market our products and services to SMBs in lists we acquire from third party data companies.

LiveDeal.com National Advertising Campaign. In 2014, we launched a 35 city advertising campaign to support the restaurant owners who have created more than 10,000 deals in over 8,000 restaurants in those 35 cities. The campaign, which includes TV, Radio and web-based ad delivery, is designed to expand awareness, increase user registrations and drive traffic into the restaurant locations that are utilizing the LiveDeal real-time “deal engine”.

Our Market

More than 27 million SMBs operate in the United States today. While a majority of SMBs have a website, most of them are not optimized for mobile devices and therefore do not effectively generate business for the SMB. SMB owners frequently lack the time, expertise or resources necessary to make their website a relevant, effective part of their marketing efforts, or to exploit the additional internet marketing channels needed for successful online marketing. Our target customers are SMBs which normally do not market their products and services nationally, but wish to utilize local marketing opportunities, including local search, to promote their products and services.

Effective online marketing requires the dedication of time, the marshaling of resources, and the development of technological, language, presentation and other skills and expertise that few SMB owners have, or have the intention or realistic ability to acquire. We recognize that, to succeed, many SMB owners must remain intensely focused on the fundamentals of their business.

At the same time, we believe that many SMB owners realize that an effective internet presence – including engaging with online and social tools – is essential to their marketing efforts, and SMBs are shifting their marketing budgets from traditional media to online channels. According to BIA/Kelsey forecasts, traditional media business segments such as print advertising, Yellow Pages and newspapers are experiencing large declines in advertising revenues, whereas social media advertising revenues will grow from \$5.1 billion in 2010 to \$8.2 billion in 2015, representing a compound annual growth rate of 10%. According to internet research firm ComScore, online ad spending increased to just over \$30 billion in the U.S. in 2011, a 20.2% increase over 2010.

According to PricewaterhouseCoopers and the Interactive Advertising Bureau, or PWC and IAB, local online/digital advertising revenues in the United States rose 14% in the first half of 2012 and continued to rise steeply through the end of 2012. Searches for products, services or businesses constrained by geographical search parameters, such as municipality or zip code, which we refer to as local searches, are an increasingly significant segment of the online marketing industry. According to a May 2011 study, The Kelsey Group estimates that the local search market in the United States will grow from \$5.7 billion in 2011 to \$10.2 billion in 2016. PWC and IAB also report that revenue from search is 47% of the total internet advertising revenue.

Accordingly, many SMBs need a partner with the necessary expertise and understanding to manage evolving internet audience acquisition services. We believe that this creates a large market opportunity for nimble, reliable and reputable service providers that help companies leverage these new channels efficiently and at affordable prices.

The continued rise in smart phones, which now outsell traditional mobile phones, has changed the ground rules for online marketing, with the consumption of online advertising rapidly moving to mobile devices. As of mid-2012, eMarketer anticipated that overall spending on mobile advertising in the United States, including display, search and messaging-based ads served to mobile phones and tablets, would rise to \$4 billion in 2012 (a 180% increase over 2011), \$7.19 billion in 2013, and nearly \$21 billion by 2016. Borrell Associates' August 2011 Mobile Report projected that the amount spent on mobile advertising will double every year for the next five years. If borne out, in 2016, mobile advertising would exceed the amount spent on local search advertising in 2011.

We see SMBs quickly adapting to the local and mobile marketing opportunities because of the great potential to retain existing and draw in new customers at affordable prices. We anticipate that soon most online searches will be conducted using a mobile phone, which greatly increases the effectiveness of mobile marketing.

Competition

General. Many of our competitors have access to greater capital resources than we do. These resources could enable our competitors to engage in advertising and other promotional activities that will enhance their brand name recognition and market share. We believe, however, that our products provide a simple and affordable way for our clients to create a web presence to market their products and services to local audiences. We further believe that we can compete effectively by continuing to provide quality services at competitive prices and by actively developing new products and services for potential clients that enable us to become a single vendor for the online marketing needs of SMBs.

Promotional Marketing. Our promotional marketing business (including our new LiveDeal.com platform) competes for local deals with several large competitors, such as Groupon and LivingSocial, and many smaller competitors. This business is part of a new market which has operated at a substantial scale for only a limited period of time. We expect competition in this market to continue to increase because no significant barriers to entry exist. Contracts with deal publishers typically contain exclusivity provisions which restrict SMBs from offering deals through other outlets.

We seek desirable local products and services which we can provide to our publishing partners. We believe that we are in a position to compete in this market successfully due to the unique features of our LiveDeal.com platform (as described above), our experienced sales managers, our experience at sourcing, selling and servicing large numbers of small business accounts, the comprehensiveness of our database, the effectiveness of our marketing programs, and the diversity of our publisher distribution network. Our distribution partnerships allow our clients to reach large audiences and promote their products and services in innovative ways.

The principal competitive factors in this market include personalization of service, ease of use, quality of services, availability of quality content, value-added products and services, access to consumers, effectiveness at driving business to our clients, and price.

Many boutique firms offer services similar to our online presence marketing products. Generally these small firms cannot provide all the comprehensive services we do. However, these small firms provide many options for web design, social media marketing, internet marketing, and search engine optimization.

Because of efficiencies stemming from our proprietary software and business structure, we are generally able to provide these services at a lower recurring cost and with lower upfront charges to commence a complete marketing campaign and build a client's mobile-optimized website.

We also compete against larger companies which offer a similar or more expanded set of products. Our principal competitive advantages over these companies are our lower prices and the better quality and service of our website design, particularly our web app platform. We believe our combination of outstanding service and low cost will enable us to provide a suite of attractive packages to our clients.

Intellectual Property

Our success will depend significantly on our ability to develop and maintain the proprietary aspects of our technology and operate without infringing upon the intellectual property rights of third parties. We currently rely primarily on a combination of copyright, trade secret and trademark laws, confidentiality procedures, contractual provisions, and similar measures to protect our intellectual property.

We estimate that reliance upon trade secrets and unpatented proprietary know-how will continue to be our principal method of protecting our trade secrets and other proprietary technologies. While we have hired third-party contractors to help develop our proprietary software and to provide various fulfillment services, we generally own (or have permissive licenses for) the intellectual property provided by these contractors. Our proprietary software is not substantially dependent on any third-party software, although our software does utilize open source code. Notwithstanding the use of this open source code, we do not believe our usage requires public disclosure of our own source code nor do we believe the use of open source code will have a material impact on our business.

We register some of our product names, slogans and logos in the United States. In addition, we generally require our employees, contractors and many of those with whom we have business relationships to sign non-disclosure and confidentiality agreements. Neither intellectual property laws, contractual arrangements, nor any of the other steps we have taken to protect our intellectual property, can ensure that third parties will not exploit our technologies or develop similar technologies.

Our proprietary publishing system provides an advanced set of integrated tools for design, service, and modifications to support our mobile web app services. Our mobile web app builder software enables easy and efficient design, end user modification and administration, and includes a variety of other tools accessible by our team members.

Corporate Offices

Our principal offices are located at 325 E. Warm Springs Road, Suite 102, Las Vegas, Nevada 89119, our telephone number is (702) 939-0231, and our corporate website (which does not form part of this report) is located at www.livedeal.com.

Employees

As of September 30, 2015, we had 300 full-time employees and two part-time employees in the United States, none of whom is covered by a collective bargaining agreement.

ITEM 1A. Risk Factors

An investment in our common stock involves a substantial degree of risk. Before making an investment decision, you should give careful consideration to the following risk factors in addition to the other risks and information described in this report. The following risk factors, however, may not reflect all of the risks associated with our business or an investment in our common stock. The trading price of our common stock could decline significantly due to any of these risks and investors may lose all or part of their investments. In assessing these risks, investors should also refer to the other information contained or incorporated by reference in this Annual Report on Form 10-K, including our consolidated financial statements for the fiscal year that ended on September 30, 2015 and related notes.

RISKS RELATION TO OUR RESULTS OF OPERATIONS AND BUSINESS GENERALLY

Our results of operations could fluctuate due to factors outside of our control.

Our operating results have historically fluctuated significantly, and we could continue to experience fluctuations or revert to declining operating results due to factors that may or may not be within our control. Such factors include the following:

- fluctuating demand for our services, which may depend on a number of factors including:
 - changes in economic conditions and our customers' profitability,
 - changes in technologies favored by consumers,
 - customer refunds or cancellations, and
 - our ability to continue to bill through existing means;
- market acceptance of new or enhanced versions of our services or products;
- price competition or pricing changes by us or our competitors;
- new product offerings or other actions by our competitors;
- the ability of our check processing service providers to continue to process and provide billing information;
- the amount and timing of expenditures for expansion of our operations, including the hiring of new employees, capital expenditures, and related costs;
- technical difficulties or failures affecting our systems or the internet in general;
- a decline in internet traffic at our website; and
- the fixed nature of a significant amount of our operating expenses.

We expect that our anticipated future growth, including through potential acquisitions, may strain our management, administrative, operational and financial infrastructure, which could adversely affect our business.

We anticipate that significant expansion of our present operations will be required to capitalize on potential growth in market opportunities, and that this expansion will place a significant strain on our management, operational and financial resources. In order to manage our growth, we will be required to continue to implement and improve our operational, marketing and financial systems, to expand existing operations, to attract and retain superior management and personnel, and to train, manage and expand our employee base. We may not be able to expand our operations effectively, our systems, procedures and controls may be inadequate to support our expanded operations, and our management may fail to implement our business plan successfully.

We may not be able to secure additional capital to expand our operations.

Although we currently have no material long-term needs for capital expenditures, we will likely be required to make increased capital expenditures to fund our anticipated growth of operations, infrastructure, and personnel. In the future, we may need to seek additional capital through the issuance of debt or equity, depending upon our results of operations, market conditions or unforeseen needs or opportunities. Our future liquidity and capital requirements will depend on numerous factors, including:

- the pace of expansion of our operations;
- our need to respond to competitive pressures; and
- future acquisitions of complementary products, technologies or businesses.

The sale of additional equity or convertible debt securities could result in additional dilution to existing stockholders. We cannot provide assurance that any financing arrangements will be available in amounts or on terms acceptable to us, if at all.

We may be exposed to litigation, claims and other legal proceedings in the relating to its products, which could have a material adverse effect on the Company's business.

In the ordinary course of business, we may be subject to a variety of product-related claims, lawsuits and legal proceedings, including those relating to product liability, product warranty, product recall, personal injury, intellectual property infringement and other matters. A very large claim or several similar claims asserted by a large class of plaintiffs could have a material adverse effect on our business, if we are unable to successfully defend against or resolve these matters or if its insurance coverage is insufficient to satisfy any judgments against us or settlements relating to these matters. Although we have product liability insurance, the policies may not provide coverage for certain claims against us or may not be sufficient to cover all possible liabilities. Further, we may not be able to maintain insurance at commercially acceptable premium levels. Moreover, adverse publicity arising from claims made against us, even if the claims are not successful, could adversely affect our reputation or the reputation and sales of our products.

If we are not able to maintain an effective system of internal controls, we may not be able to accurately or timely report our financial results, which could cause our stock price to fall or result in our stock being delisted.

Effective internal controls are necessary for us to provide reliable and accurate financial reports. We will need to devote significant resources and time to comply with the requirements of Sarbanes-Oxley with respect to internal control over financial reporting. In addition, Section 404 under Sarbanes-Oxley requires that we assess the design and operating effectiveness of our controls over financial reporting. Our ability to comply with the annual internal control report requirement will depend on the effectiveness of our financial reporting and data systems and controls across our company and our operating subsidiaries. We expect these systems and controls to become increasingly complex to the extent that we integrate acquisitions and as our business grows. To effectively manage this complexity, we will need to continue to improve our operational, financial, and management controls and our reporting systems and procedures. Any failure to implement required new or improved controls, or difficulties encountered in the implementation or operation of these controls, could harm our operating results or cause us to fail to meet our financial reporting obligations, which could adversely affect our business and jeopardize our listing on the NASDAQ Capital Market, either of which would harm our stock price.

Risks Related to Our New Business Strategy

We may experience certain risks associated with acquisitions, joint ventures and strategic investments.

We intend to grow our business through a combination of organic growth and acquisitions. Growth through acquisitions involves risks, many of which may continue to affect us after the acquisition. We cannot give assurance that an acquired company will achieve the levels of revenue, profitability and production that we expect. Acquisitions may require the issuance of additional securities or the incurrence of additional indebtedness, which may dilute the ownership interests of existing security holders or impose higher interest costs on us.

A failure to identify suitable acquisition candidates or partners for strategic investments and to complete acquisitions could have a material adverse effect on the Company's business.

As part of our new business strategy, we intend to pursue a wide array of potential strategic transactions, including acquisitions of complementary businesses, as well as strategic investments and joint ventures. Although we regularly evaluates such opportunities, we may not be able to successfully identify suitable acquisition candidates or investment opportunities, to obtain sufficient financing on acceptable terms to fund such strategic transactions, to complete acquisitions and integrate acquired businesses with the our existing businesses, or to manage profitably acquired businesses or strategic investments.

Acquisitions may result in dilutive issuances of equity securities, use of our cash resources, incurrence of debt and amortization of expenses related to intangible assets acquired. In addition, the process of integrating an acquired company, business or technology, which requires a substantial commitment of resources and management's attention, may create unforeseen operating difficulties and expenditures. The acquisition of a company or business is accompanied by a number of risks, including:

- exposure to unanticipated liabilities of an acquired company (or acquired assets);
- difficulties integrating or developing acquired technology into our services or acquired products or services into our operations, and unanticipated expenses or disruptions related to such integration;
- the potential loss of key partners or key personnel in connection with, or as the result of, a transaction;
- the impairment of relationships with clients of the acquired business, or our own clients, partners or employees, as a result of any integration of operations or the expansion of our offerings;
- the recording of goodwill and intangible assets that will be subject to impairment testing on a regular basis and potential periodic impairment charges;
- the diversion of the attention of our management team from other business concerns, including the day-to-day management of our businesses or the internal growth strategies that we are currently implementing;
- the risk of entering into markets or producing products where we have limited or no experience, including the integration or removal of the acquired or disposed technologies and products with or from our existing technologies and products; and
- the inability properly to implement or remediate internal controls, procedures and policies appropriate for a public company at businesses that prior to our acquisition were not subject to federal securities laws and may have lacked appropriate controls, procedures and policies.

The acquisition of new businesses is costly and such acquisitions may not enhance our financial condition.

Our growth strategy is to acquire companies and identify and acquire assets and technologies from companies in various industries that have a demonstrated history of strong earnings potential. The process to undertake a potential acquisition is time-consuming and costly. We expend significant resources to undertake business, financial and legal due diligence on our potential acquisition target and there is no guarantee that we will acquire the company after completing due diligence. Any future acquisitions will be subject to a number of challenges, including:

- Diversion of management time and resources and the potential disruption of our ongoing business;
- Difficulties in maintaining uniform standards, controls, procedures and policies;
- Potential unknown liabilities associated with acquired businesses;
- Difficulty of retaining key alliances on attractive terms with partners and suppliers;
- Difficulty of retaining and recruiting key personnel and maintaining employee morale

Our acquisitions could result in the use of substantial amounts of cash, potentially dilutive issuances of equity securities, significant amortization expenses related to goodwill and other intangible assets and exposure to undisclosed or potential liabilities of acquired companies. To the extent that the goodwill arising from the acquisitions carried on the financial statements do not pass the annual goodwill impairment test, excess goodwill will be charged to future earnings.

Because we do not intend to use our own employees or members of management to run the daily operations at our acquired companies, business operations might be interrupted if they were to resign.

As part of our acquisition strategy, we do not use our own employees or members of our management team to operate the acquired companies. Key management at these companies has been in place for several years and has established solid relationships with their customers. Competition for executive-level personnel is strong and we can make no assurance that we will be able to retain the highly effective executive employees. Although we have entered into employment agreements with executive management and provide incentives to stay with the business after its been acquired, if such key persons were to resign we might face impairment of relationships with remaining employees or customers, and might cause long-term customers to terminate their relationships with the acquired companies.

Risks Related to the Flooring Manufacturing Business

The floor covering industry is sensitive to changes in general economic conditions, such as consumer confidence and income, corporate and government spending, interest rate levels, availability of credit and demand for housing. Significant or prolonged declines in the U.S. or global economies could have a material adverse effect on the Company's business.

Downturns in the U.S. and global economies, along with the residential and commercial markets in such economies, negatively impact the floor covering industry and our flooring manufacturing business. Although the difficult economic conditions have improved in the U.S., there may be additional downturns that could cause the industry to deteriorate in the foreseeable future. A significant or prolonged decline in residential or commercial remodeling or new construction activity could have a material adverse effect on our business and results of operations.

We may be unable to predict customer preferences or demand accurately, or to respond to technological developments.

We operate in a market sector where demand is strongly influenced by rapidly changing customer preferences as to product design and technical features. Failure to quickly and effectively respond to changing customer demand or technological developments could have a material adverse effect on our business.

We face intense competition in the flooring industry that could decrease demand for our products or force us to lower prices, which could have a material adverse effect on our business.

The floor covering industry is highly competitive. We face competition from a number of manufacturers and independent distributors. Maintaining our competitive position may require substantial investments in the out product development efforts, manufacturing facilities, distribution network and sales and marketing activities. Competitive pressures may also result in decreased demand for our products or force us to lower prices. Moreover, a strong U.S. dollar combined with lower fuel costs may contribute to more attractive pricing for imports that compete with our products, which may put pressure on our pricing. Any of these factors could have a material adverse effect on our business.

In periods of rising costs, we may be unable to pass raw materials, energy and fuel-related cost increases on to its customers, which could have a material adverse effect on our business.

The prices of raw materials and fuel-related costs vary significantly with market conditions. Although we generally attempt to pass on increases in raw material, energy and fuel-related costs to our customers, our ability to do so is dependent upon the rate and magnitude of any increase, competitive pressures and market conditions for our products. There have been in the past, and may be in the future, periods of time during which increases in these costs cannot be recovered. During such periods of time, our business may be materially adversely affected.

Risks Related to Our Online Marketing Business

If we do not introduce new or enhanced offerings to our customers, we may be unable to attract and retain those customers, which would significantly impede our ability to generate revenue.

Our management team actively evaluates and improves our marketing efforts and our product and service offerings, as well as contracts with new partners and hires and trains personnel for management, sales and fulfillment. Any new product offering is subject to certain risks, including customer acceptance, competition, product differentiation, challenges relating to economies of scale and the ability to attract and retain qualified personnel, including management and designers. Many of our contracts with third party vendors, including our strategic partnerships, permit our partners to terminate the contract, with short or no prior notice, for convenience, as well as in the event we default under the terms of the contract for failing to meet our contractual obligations.

The development of new products involves considerable costs and any new product may not generate sufficient consumer interest and sales to become a profitable brand or to cover the costs of its development and subsequent promotions. There can be no assurance that we will be able to develop and grow our current offerings, or any other new offerings, to a point where they will become profitable, or generate positive cash flow. We may modify or terminate our current product and services offerings if our management determines that they are not yielding or will not yield desired results.

Our product introductions and improvements, along with our other marketplace initiatives, are designed to capitalize on customer demands and trends. In order to be successful, we must anticipate and react to changes in these demands and trends, and to modify existing products or develop new products or processes to address them. Potential customers may not subscribe to our current offerings or other online marketing products and services that we may offer in the future, or may discontinue use if they find these products and services to be too costly, or ineffective for meeting their business needs than other methods of advertising and marketing. Our business, prospects, financial condition or results of operations will be materially and adversely affected if we do not execute our strategy or our products and services are not adopted by a sufficient number of customers.

Our success depends upon our ability to establish and maintain relationships with our customers.

Our ability to generate revenue depends upon our ability to maintain relationships with our existing customers, to attract new customers to sign up for revenue-generating products and services, and to generate traffic to our customers' websites. We primarily use telemarketing efforts to attract new customers. These telemarketing efforts may not produce satisfactory results in the future. We attempt to maintain relationships with our customers through customer service and delivery of traffic to their businesses. An inability to either attract additional customers to use our service or to maintain relationships with our customers could have a material adverse effect on our business, prospects, financial condition, and results of operations.

We face intense competition from companies that provide online marketing services with greater resources, which could adversely affect our growth and could lead to decreased revenues.

Content marketing and other online marketing services are emerging fields with a considerable amount of competitors in each field. Major internet companies, including Google, Microsoft, Verizon, AT&T and Yahoo!, currently market internet Yellow Pages, local search services and other products that directly compete with our legacy business as well as our new product offerings and major deal companies, like Groupon and Living Social, currently market daily deals that directly compete with our promotional marketing business. Other existing and potential competitors include website design and development service and software companies; internet service providers and application service providers; internet search engine providers; domain registrars; website hosting providers; local business directory providers; and ecommerce platform and service providers.

We may not compete effectively with existing and potential competitors for several reasons, including the following:

- some competitors have longer operating histories, larger and more established subscriber bases, and greater financial and other resources than we have and are in better financial condition than we are, enabling them to engage in more extensive research and development, more aggressive pricing policies, and more advertising and other promotional activities that will enhance their brand name recognition and increase their market share;
- some competitors may release free tools, including open source tools, which perform some or many of the services we offer to our customers;
- some competitors have better name recognition or reputations, as well as larger, more established, and more extensive marketing, customer service, and customer support capabilities than we have;
- some competitors may be able to better adapt to changing market conditions and customer demand; and
- barriers to entry are not significant, and new competitors may enter our markets or develop technologies that reduces the need for our services.

Increased competitive pressure could lead to reduced market share, as well as lower prices and reduced margins, for our services.

As a result of an anticipated increase in competition in our markets, and the likelihood that some of this competition will come from companies with more established brands and resources than us, we believe brand name recognition and reputation will become increasingly important. If we are not successful in quickly building brand awareness, we could be placed at a competitive disadvantage to companies whose brands are more recognizable than ours.

We depend upon third parties to provide certain services and software, and our business may suffer if the relationships upon which we depend fail to produce the expected benefits or are terminated.

We depend upon third-party software to operate certain of our services. The failure of this software to perform as expected could have a material adverse effect on our business. Additionally, although we believe that several alternative sources for this software are available, any failure to obtain and maintain the rights to use such software could have a material adverse effect on our business, prospects, financial condition, and results of operations. We also depend upon third parties who provide the cloud computing services which host our customers' websites, including the mobile web apps, to be sufficiently reliable and provide sufficient capacity and bandwidth so that our business can function properly and our customers' websites are responsive to current and anticipated traffic. Any restrictions or interruption in those providers' services or connection to the internet could have a material adverse effect on our business, prospects, financial condition, and results of operations. If we are forced to switch hosting facilities, we may not be successful in finding an alternative service provider on acceptable terms or in hosting the required computer servers and implementing the required technology ourselves. We may also be limited in our remedies against these providers in the event of a failure of service.

We may not be able to adequately protect our intellectual property rights.

Our success depends both on our internally developed technology and licensed third party technology. We rely on a variety of trademarks, service marks, and designs to promote our brand names and identity. We also rely on a combination of contractual provisions, confidentiality procedures, and trademark, copyright, trade secrecy, unfair competition, and other intellectual property laws to protect the proprietary aspects of our products and services. Legal standards relating to the validity, enforceability, and scope of the protection of certain intellectual property rights in internet-related industries are uncertain and still evolving. The steps we take to protect our intellectual property rights may not be adequate to protect our intellectual property and may not prevent our competitors from gaining access to our intellectual property and proprietary information. In addition, we cannot provide assurance that courts will always uphold our intellectual property rights or enforce the contractual arrangements that we have entered into to obtain and protect our proprietary technology.

Third parties, including our partners, contractors or employees, may infringe or misappropriate our copyrights, trademarks, service marks, trade dress, and other proprietary rights. Any such infringement or misappropriation could have a material adverse effect on our business, prospects, financial condition, and results of operations. In addition, the relationship between regulations governing domain names and laws protecting trademarks and similar proprietary rights is unclear. We may be unable to prevent third parties from acquiring domain names that are similar to, infringe upon or otherwise decrease the value of our trademarks and other proprietary rights, which may result in the dilution of the brand identity of our services.

We may decide to initiate litigation in order to enforce our intellectual property rights or to determine the validity and scope of our proprietary rights. Any such litigation could result in substantial expense, and may not adequately protect our intellectual property rights. In addition, we may be exposed to future litigation by third parties based on claims that our products or services infringe or misappropriate their intellectual property rights. Any such claim or litigation against us, whether or not successful, could result in substantial costs and harm our reputation. In addition, such claims or litigation could force us to do one or more of the following:

- cease selling or using any of our products and services that incorporate the subject intellectual property, which would adversely affect our revenue;
- attempt to obtain a license from the holder of the intellectual property right alleged to have been infringed or misappropriated, which license may not be available on reasonable terms; and
- attempt to redesign or, in the case of trademark claims, rename our products or services to avoid infringing or misappropriating the intellectual property rights of third parties, which may be costly and time-consuming.

Even if we were to prevail, such claims or litigation could be time-consuming and expensive to prosecute or defend, and could result in the diversion of our management's time and attention. These expenses and diversion of managerial resources could have a material adverse effect on our business, prospects, financial condition, and results of operations.

We may be subject to intellectual property claims that create uncertainty about ownership or use of technology essential to our business and divert our managerial and other resources.

Our success depends, in part, on our ability to operate without infringing the intellectual property rights of others. Third parties may, in the future, claim our current or future services, products, trademarks, technologies, business methods or processes infringe their intellectual property rights, or challenge the validity of our intellectual property rights. We may be subject to patent infringement claims or other intellectual property infringement claims that would be costly to defend and could limit our ability to use certain critical technologies or business methods. We may also become subject to interference proceedings conducted in the patent and trademark offices of various countries to determine the priority of inventions.

The defense and prosecution, if necessary, of intellectual property suits, interference proceedings and related legal and administrative proceedings can become very costly and may divert our technical and management personnel from their normal responsibilities. We may not prevail in any of these suits or proceedings. An adverse determination of any litigation or defense proceedings could require us to pay substantial compensatory and exemplary damages, could restrain us from using critical technologies, business methods or processes, and could result in us losing, or not gaining, valuable intellectual property rights.

Furthermore, due to the voluminous amount of discovery frequently conducted in connection with intellectual property litigation, some of our confidential information could be disclosed to competitors during this type of litigation. In addition, public announcements of the results of hearings, motions or other interim proceedings or developments in the litigation could be perceived negatively by investors, and thus have an adverse effect on the trading price of our common stock.

We may be required to expand or upgrade our infrastructure.

Our ability to provide high-quality services largely depends upon the efficient and uninterrupted operation of our computer and communications systems. We (or our third party service providers) may be required to expand or upgrade our (or their) technology, infrastructure, fulfillment capabilities, or customer support capabilities in order to accommodate any significant growth in customers or to replace aging or faulty equipment or technologies. We (or they) may not be able to project accurately the rate or timing of increases, if any, in the use of our services or expand and upgrade our (or their) systems and infrastructure to accommodate these increases in a timely manner.

Any expansion of our (or our third party service providers') infrastructure may require us (or them) to make significant upfront expenditures for servers, routers, computer equipment, and additional internet and intranet equipment, as well as to increase bandwidth for internet connectivity. Any such expansion or enhancement may cause system disruptions.

Our (or our third party service providers') inability to expand or upgrade our technology, infrastructure, fulfillment capabilities, customer support capabilities or equipment as required or without disruptions could impair the reputation of our brand and our services and diminish the attractiveness of our service offerings to our clients.

We may fail to retain existing merchants, or add new merchants, in our promotional marketing business.

Our promotional marketing business depends in part on our strategic partners to publish discounted products and services we source from our SMB clients. We depend on our ability to attract and retain SMBs that are prepared to offer products or services on compelling terms through our strategic partners. We are a recent entrant to this market and we do not have long-term arrangements to guarantee the availability of deals that offer attractive quality, value and variety to consumers or favorable payment terms to us. We must continue to attract and retain merchants in various geographical areas to our promotional marketing business in order to increase revenue and achieve profitability. If new merchants do not find our marketing and promotional services effective, or if existing merchants do not believe that utilizing our products provides them with a long-term increase in customers, revenues or profits, they may stop making offers through us. In addition, we may experience attrition in our merchants in the ordinary course of business resulting from several factors, including losses to competitors and merchant closures or bankruptcies. If we are unable to attract new merchants in numbers sufficient to grow our promotional marketing business, or if too many merchants are unwilling to offer products or services with compelling terms through our strategic partners, or to offer favorable payment terms to us, we may sell fewer daily deals and our operating results will be adversely affected.

Our promotional marketing business depends heavily on our strategic partners.

Our promotional marketing business is highly dependent upon our ability to sell discounted products and services offered by our SMB clients through our strategic partners. Unlike many of our established competitors, we currently lack a significant subscriber base for selling these offers to potential customers of these SMB clients. Instead, we rely on our strategic partners, some of whom have extremely large user bases, to publish these offers to reach these potential customers. We do not have long-term relationships with these strategic partners. Our agreements with these strategic partners generally permit our partners to terminate the agreement with short or no prior notice, for convenience, and/or do not require our partners to publish the offers we source from our SMB clients.

We may not be able to adapt as the internet, mobile technologies and customer demands continue to evolve.

The internet, e-commerce, the online marketing industry and mobile devices are characterized by:

- rapid technological change;
- changes in customer and user requirements and preferences;
- frequent new product and service introductions embodying new technologies and business logic; and
- the emergence of new industry standards and practices that could render our existing service offerings, technology, and hardware and software infrastructure obsolete.

In order to compete successfully in the future, we must:

- enhance our existing services and develop new services and technology that address the increasingly sophisticated and varied needs of our prospective or current customers;
- license, develop or acquire technologies useful in our business on a timely basis; and
- respond to technological advances and emerging industry standards and practices on a cost-effective and timely basis.

Our failure to respond in a timely manner to changing market conditions or client requirements could have a material adverse effect on our business, prospects, financial condition, and results of operations.

Our business could be negatively impacted if the security of our or our partners' equipment becomes compromised.

To the extent that our activities involve the storage and transmission of proprietary information about our customers or users, security breaches could damage our reputation and expose us to a risk of loss or litigation and possible liability. We may be required to expend significant capital and other resources to protect against security breaches or to minimize problems caused by security breaches. Our (or our third party service providers') security measures may not prevent security breaches. The failure to prevent these security breaches or a misappropriation of proprietary information may have a material adverse effect on our business, prospects, financial condition, and results of operations.

We are subject to a number of risks related to credit card payments.

We bill a large portion of our clients using credit and debit cards. For credit and debit card payments, we pay interchange and other fees, which may increase over time and raise our operating expenses and adversely affect our net income. We are also subject to payment card association operating rules, certification requirements and rules governing electronic funds transfers, which could change or be reinterpreted to make it difficult or impossible for us to comply. We believe we are compliant with the Payment Card Industry Data Security Standard, which incorporates Visa's Cardholder Information Security Program and MasterCard's Site Data Protection standard. However, there is no guarantee that we will maintain such compliance or that compliance will prevent illegal or improper use of our payment system. If we fail to comply with these rules or requirements, we may be subject to fines and higher transaction fees and lose our ability to accept credit and debit card payments from our clients. A failure to adequately control fraudulent credit card transactions would result in significantly higher credit card-related costs and could have a material adverse effect on our business, financial condition or results of operations.

Risks Related to the Internet

We may be unable to keep pace with rapid technological change in the internet industry.

In order to remain competitive, we will be required continually to enhance and improve the functionality and features of our existing products and services, which could require us to invest significant capital or make substantial changes to our personnel, technologies or equipment. If our competitors introduce new products and services embodying new technologies or if new industry standards and practices emerge, our existing services, technologies, and systems may become obsolete or uncompetitive. We may not have the funds or technical knowledge to upgrade our services, technologies, or systems. If we face material delays in introducing new or enhanced products and services, our customers and users may select those of our competitors, in which event our business, prospects, financial condition, and results of operations could be materially and adversely affected.

Regulation of the internet may adversely affect our business.

The laws governing the internet remain largely unsettled, even in areas where legislation has been enacted. It may take years to determine whether and how existing laws, such as those governing intellectual property, privacy, defamation, product liability, and taxation apply to the internet and internet services. Unfavorable resolution of these issues may substantially harm our business and operating results.

Due to the increasing popularity and use of the internet and online services such as online Yellow Pages, federal, state, local, and foreign governments may adopt laws and regulations, or amend existing laws and regulations, with respect to the internet and other online services. These laws and regulations may affect issues such as user privacy, pricing, content, taxation, copyrights, distribution, product liability and quality of products and services. In addition, the growth and development of the market for electronic commerce may prompt calls for more stringent consumer protection laws, both in the United States and abroad, that may impose additional burdens on companies conducting business over the internet, including those covering user privacy, data protection, spyware, “do not email” lists, “do not call” lists, access to high speed and broadband service. Other laws and regulations that have been adopted, or may be adopted in the future, that may affect our business include pricing, taxation (including sales, value-added and other transactional taxes), tariffs, patents, copyrights, trademarks, trade secrets, export of encryption technology, electronic contracting, click-fraud, acceptable content, search terms, lead generation, behavioral targeting, consumer protection, and quality of products and services. Any new legislation could hinder the growth in use of the internet generally or in our industry and could impose additional burdens on companies conducting business online, which could, in turn, decrease the demand for our products and services, increase our cost of doing business, or otherwise have a material adverse effect on our business, prospects, financial condition, and results of operations.

Our internet business is subject to an uncertain and developing regulatory environment.

While relatively few laws and regulations apply specifically to internet businesses, the application of other laws and regulations to internet businesses, including ours, is unclear in many instances. There remains significant legal uncertainty in a variety of areas, including intellectual property, user privacy, the positioning of sponsored listings on search results pages, defamation, taxation, product liability, and the regulation of content in various jurisdictions.

Compliance with federal laws relating to the internet and internet businesses may impose upon us significant costs and risks, or may subject us to liability if we do not successfully comply with their requirements, whether intentionally or unintentionally. Specific federal laws that impact our business include The Digital Millennium Copyright Act of 1998, The Communications Decency Act of 1996, The Children’s Online Privacy Protection Act of 1998 (including related Federal Trade Commission regulations), The Protect Our Children Act of 2008, and The Electronic Communications Privacy Act of 1986, among others. For example, the Digital Millennium Copyright Act, which is in part intended to reduce the liability of online service providers for listing or linking to third-party websites that include materials that infringe the rights of others, was adopted by Congress in 1998. If we violate the Digital Millennium Copyright Act we could be exposed to costly and time-consuming copyright litigation.

Our utilization of ACH billing exposes us to review by the National Automated Clearing House Association. Future actions from these and other regulatory agencies could expose us to substantial liability in the future, including fines and criminal penalties, preclusion from offering certain products or services, and the prevention or limitation of certain marketing practices.

Existing laws and regulations and any future regulation may have a material adverse effect on our business. For example, we believe that our direct marketing programs meet existing requirements of the Federal Trade Commission, or FTC. Any changes to FTC requirements or changes in our direct or other marketing practices, however, could result in our marketing practices failing to comply with FTC regulations, or could require us to change our marketing strategies or practices, which could adversely impact our ability to acquire new clients.

The application of certain laws and regulations to our promotional marketing business, as a new product category, is uncertain. These include federal and state laws governing considered gift cards, gift certificates, stored value cards or prepaid cards, such as the federal Credit Card Accountability Responsibility and Disclosure Act of 2009, or the CARD Act, and unclaimed and abandoned property laws. Numerous class action lawsuits that have been filed in federal and state court claiming that vouchers used in promotional marketing are subject to the CARD Act and various state laws governing gift cards and that the defendants have violated these laws by issuing vouchers with expiration dates and other restrictions. If we are required to alter our promotional marketing business practices as a result of any laws and regulations, our revenue could decrease, our costs could increase and our business could otherwise be harmed. In addition, the costs and expenses associated with defending any actions related to such additional laws and regulations and any payments of related penalties, judgments or settlements could adversely impact our financial condition and results of operations.

We may not be able to obtain internet domain names that we would like to have.

We believe that our existing internet domain names are an extremely important part of our business. We may desire, or it may be necessary in the future, to use these or other domain names in the United States and internationally. Various internet regulatory bodies regulate the acquisition and maintenance of domain names in the United States and other countries. These regulations are subject to change. Governing bodies may establish additional top-level domains, appoint additional domain name registrars or modify the requirements for holding domain names. As a result, we may be unable to acquire or maintain relevant domain names in all countries in which we plan to conduct business in the future.

The extent to which laws protecting trademarks and similar proprietary rights will be extended to protect domain names currently is not clear. We therefore may be unable to prevent competitors from acquiring domain names that are similar to, infringe upon or otherwise decrease the value of our domain names, trademarks, trade names, and other proprietary rights. We cannot provide assurance that potential users and customers will not confuse our domain names, trademarks, and trade names with other similar names and marks. If that confusion occurs, we may lose business to a competitor and some customers and users may have negative experiences with other companies that those customers and users erroneously associate with us.

Our business is subject to the risks of earthquakes, fires, floods and other natural catastrophic events and to interruption by man-made problems such as computer viruses or terrorism.

Our service systems and operations are vulnerable to damage or interruption from earthquakes, fires, floods, power losses, telecommunications failures, terrorist attacks, acts of war, human errors, break-ins and similar events. For example, a significant natural disaster, such as an earthquake, fire or flood, could have a material adverse impact on our business, operating results and financial condition, and our insurance coverage will likely be insufficient to compensate us for losses that may occur. Our servers may also be vulnerable to computer viruses, break-ins and similar disruptions from unauthorized tampering with our computer systems, which could lead to interruptions, delays, loss of critical data or the unauthorized disclosure of confidential intellectual property or client data. We may not have sufficient protection or recovery plans in certain circumstances, such as natural disasters affecting the Las Vegas or San Diego area, and our business interruption insurance may be insufficient to compensate us for losses that may occur. As we rely heavily on our servers, computer and communications systems and the internet to conduct our business and provide high quality customer service, such disruptions could negatively impact our ability to operate our business, which could have a material and adverse effect on our operating results and financial condition.

If we are sued for content distributed through, or linked to by, our website or those of our customers, we may be required to spend substantial resources to defend ourselves and could be required to pay monetary damages.

We aggregate and distribute third-party data and other content over the internet. In addition, third-party websites are accessible through our website or those of our customers. As a result, we could be subject to legal claims for defamation, negligence, intellectual property infringement, product or service liability or other torts. Other claims may be based on errors or false or misleading information provided on or through our website or websites of our customers, or on links to sexually explicit or gambling websites and sexually explicit advertisements. We may need to expend substantial resources to investigate and defend these claims, regardless of whether we successfully defend against them. While we carry general business insurance, the amount of coverage we maintain may not be adequate. In addition, implementing measures to reduce our exposure to this liability may require us to spend substantial resources and limit the attractiveness of our products or services to users.

If our security measures are breached and unauthorized access is obtained to a client's data, our service may be perceived as not being secure and clients may curtail or stop using our service.

Our service may involve the storage and transmission of clients' proprietary information, such as credit card and bank account numbers, and security breaches could expose us to a risk of loss of this information, litigation and possible liability. Our payment services may be susceptible to credit card and other payment fraud schemes, including unauthorized use of credit cards, debit cards or bank account information, identity theft or merchant fraud.

If our security measures are breached in the future as a result of third-party action, employee error, malfeasance or otherwise, and as a result, someone obtains unauthorized access to our clients' data, our reputation could be damaged, our business may suffer and we could incur significant liabilities. Because techniques used to obtain unauthorized access or to sabotage systems change frequently and frequently are not recognized until launched against a target, we may be unable to anticipate these techniques or to implement adequate preventative measures. If an actual or perceived breach of our security occurs, the market perception of the effectiveness of our security measures could be harmed and we could lose sales and clients.

Our revenue may be negatively affected if we are required to charge sales tax or other transaction taxes on all or a portion of our past and future sales to customers located in jurisdictions where we are currently not collecting and reporting tax.

We generally do not charge, collect or have imposed upon us sales, value added (VAT) or other transaction taxes related to the products and services we sell, except for certain corporate level taxes and transaction level taxes outside of the United States. However, the federal, state, and local governments or one or more foreign countries may seek to impose sales or other transaction tax obligations on us in the future. A successful assertion by any tax jurisdiction in which we do business that we should be collecting sales or other transaction taxes on the sale of our products or services, or the adoption of new laws to require us to collect such taxes, could result in substantial tax liabilities related to past sales, create increased administrative burdens or costs, discourage customers from purchasing or continuing to purchase products or services from us, decrease our ability to compete or otherwise substantially harm our business and results of operations.

Risks Related to Our Securities

Stock prices of technology companies have declined precipitously at times in the past and the trading price of our common stock is likely to be volatile, which could result in substantial losses to investors.

The trading price of our common stock has been highly volatile over the past few years and investors could experience losses in response to factors including the following, many of which are beyond our control:

- decreased demand in the internet services sector;
- variations in our operating results;
- announcements of technological innovations or new products or services by us or our competitors;
- changes in expectations of our future financial performance, including financial estimates by securities analysts and investors;
- our failure to meet analysts' expectations;
- changes in operating and stock price performance of other technology companies similar to us;
- conditions or trends in the technology industry, the online marketing industry or the mobile device industry;
- additions or departures of key personnel or strategic partners; and
- future sales of our debt or equity securities, including common stock.

Domestic and international stock markets often experience significant price and volume fluctuations that are unrelated or disproportionate to the operating performance of companies with securities trading in those markets. These fluctuations, as well as political events, terrorist attacks, threatened or actual war, and general economic conditions unrelated to our performance, may adversely affect the price of our common stock. In the past, securities holders of other companies often have initiated securities class action litigation against those companies following periods of volatility in the market price of those companies' securities. If the market price of our stock fluctuates and our stockholders initiate this type of litigation, we could incur substantial costs and experience a diversion of our management's attention and resources, regardless of the outcome. This could materially and adversely affect our business, prospects, financial condition, and results of operations.

Due to our concentrated stock ownership, public stockholders may have no effective voice in our management and the trading price of our common stock may be adversely affected.

Isaac Capital Group LLC (ICG) is the beneficial owner of approximately 43.3% of our outstanding shares of common stock. Jon Isaac, our Chairman, CEO and President, is the President and sole member of ICG and accordingly has the sole power to vote the shares of our common stock owned by ICG, and as a result, is able to exercise significant influence over all matters that require us to obtain shareholder approval, including the election of directors to our board and approval of significant corporate transactions that we may consider, such as a merger or other sale of our company or its assets. Moreover, such a concentration of voting power could have the effect of delaying or preventing a third party from acquiring us at a premium. This significant concentration of share ownership may also adversely affect the trading price for our common stock because investors may perceive disadvantages in owning stock in companies with concentrated stock ownership.

We do not anticipate paying dividends on our common stock in the foreseeable future.

With the exception of dividends payable to our series E preferred stockholders, we do not intend to pay cash dividends in the foreseeable future due to our limited funds for operations. Therefore, any return on your investment would likely come only from an increase in the market value of our common stock.

Certain provisions of Nevada law, in our organizational documents and in contracts to which we are party may prevent or delay a change of control of our company.

We are subject to the Nevada anti-takeover laws regulating corporate takeovers. These anti-takeover laws prevent Nevada corporations from engaging in a merger, consolidation, sales of its stock or assets, and certain other transactions with any stockholder, including all affiliates and associates of the stockholder, who owns 10% or more of the corporation's outstanding voting stock, for three years following the date that the stockholder acquired 10% or more of the corporation's voting stock, except in certain situations. In addition, our amended and restated articles of incorporation and bylaws include a number of provisions that may deter or impede hostile takeovers or changes of control or management. These provisions include the following:

- the authority of our Board of Directors to issue up to 5,000,000 shares of preferred stock and to determine the price, rights, preferences, and privileges of these shares, without stockholder approval;
- stockholders must comply with advance notice requirements to transact any business at the annual meeting;
- all stockholder actions must be effected at a duly called meeting of stockholders and not by written consent, unless such action or proposal is first approved by our Board of Directors;
- special meetings of the stockholders may be called only by the Chairman of the Board, the Chief Executive Officer, or the President of our company;
- a director may be removed from office only for cause by the holders of at least two-thirds of the voting power entitled to vote at an election of directors;
- our Board of Directors is expressly authorized to alter, amend or repeal our bylaws;
- newly-created directorships and vacancies on our Board of Directors may only be filled by a majority of remaining directors, and not by our stockholders; and
- cumulative voting is not allowed in the election of our directors.

These provisions of Nevada law and our articles and bylaws could prohibit or delay mergers or other takeover or change of control of our company and may discourage attempts by other companies to acquire us, even if such a transaction would be beneficial to our stockholders.

Our common stock may be subject to the "penny stock" rules as promulgated under the Securities Exchange Act of 1934.

In the event that no exclusion from the definition of "penny stock" under the Securities Exchange Act of 1934, as amended, is available, then any broker engaging in a transaction in our common stock will be required to provide its customers with a risk disclosure document, disclosure of market quotations, if any, disclosure of the compensation of the broker-dealer and its sales person in the transaction, and monthly account statements showing the market values of our securities held in the customer's accounts. The bid and offer quotation and compensation information must be provided prior to effecting the transaction and must be contained on the customer's confirmation of sale. Certain brokers are less willing to engage in transactions involving "penny stocks" as a result of the additional disclosure requirements described above, which may make it more difficult for holders of our common stock to dispose of their shares.

ITEM 1B. Unresolved Staff Comments

Not applicable.

ITEM 2. Properties

We lease approximately 11,000 square feet of space located at 325 East Warm Springs Road, Suite 100, Las Vegas Nevada, which we utilize as principal executive and administrative officers and our call center. We currently pay approximately \$13,000 in monthly rent for the call center, which is subject to annual increases. Our lease for this space ends on approximately February 29, 2016; however, we have the option to extend the lease for two additional lease terms of three years each. We also lease space in San Diego, California, where we utilize approximately 1,600 square feet. This office is currently being provided to us by a company that is a related party to the Isaac Capital Group LLC, one of our largest stockholders which is owned by Jon Isaac, our President and CEO and a director.

Marquis operates out of eight buildings. Of the eight, only one property is leased. We are in the process of selling all of the owned properties with the intent to secure long-term leases for each of those properties from the new owners. We have listed the properties for sale for a total of \$13 million.

Location	Purpose	Payment
2743 Highway 76 Chatsworth, GA	Corporate offices and warehouse 25,930 sq ft on 2.9 acres	Owned in fee
325 Smyrna Church Rd. Chatsworth, GA	Warehouse 31,682 sq ft. on 2 acres	Owned in fee
242 Treadwell Rd. Chatsworth, GA	Office and storage 37,000 on 3.1 acres	Owned in fee
1978 HW 52 Alt. Chatsworth, GA	Tufting Department 68,000 sq. ft. on 4.3 acres	Owned in fee
1642 Duvall Rd. Chatsworth, GA	Machine Storage and Forklift 30,716 sq. ft. on 1.5 acres	Owned in fee
1805 South Hamilton Dalton, GA	Storage and Extrusion 51,000 sq. ft. on 10.8 acres	Owned in fee
2669 Lakeland Rd. Dalton, GA	Yarn Processing Facility 74,546 sq. ft. on 5.85 acres	Owned in fee
716 River Street Calhoun, GA	Offices 100,000 sq. ft. on 9.1 acres	5 year lease with 2 options to renew, current monthly lease \$18,562

ITEM 3. Legal Proceedings

Except as described below, we are not a party to, and none of our property was the subject of, any material pending legal proceedings, other than ordinary routine litigation incidental to our business. While we currently believe that the ultimate outcome of these routine proceedings will not have a material adverse effect on our consolidated financial condition or results of operations, litigation is subject to inherent uncertainties. An unfavorable ruling could result in a material adverse impact on our net income and financial condition in the period in which a ruling occurs. Moreover, routine litigation, even if not meritorious, could result in the expenditure of significant financial and managerial resources and could adversely affect our net income and financial condition.

J3 Harmon LLC v. LiveDeal, Inc.

On February 9, 2012, J3 Harmon LLC, which we refer to as J3, filed a lawsuit against us in the Superior Court for Maricopa County in the State of Arizona, alleging breach of a commercial lease agreement. J3 sought damages for alleged unpaid rents during the lease term as well as alleged damages for storage costs after the expiration of the lease term. We denied the allegations and asserted various affirmative defenses. In September 2012, the Maricopa County Superior Court entered a judgment in favor of J3 in the sum of \$62,886.13. We appealed this judgment.

On October 1, 2013, the Arizona Court of Appeals affirmed in part and reversed in part on the principal damages and remanded the matter for judgment. Subsequently, the Maricopa County Superior Court entered Judgment on Mandate against the Company in the principal sum of \$46,636.31 and attorneys' fees of \$5,624.40, with post-judgment interest from October 3, 2012. There is no further basis for appeal by the Company. Therefore the matter is concluded. We are not aware of any post-judgment collection activity, which has been undertaken. As of September 30, 2015, the payment of this judgment has not been paid and the Company recorded an accrual of \$52,261 related to this matter.

ITEM 4. Mine Safety Disclosures

Not applicable.

PART II

ITEM 5. Market for Registrant's Common Equity, Related Stockholder Matters and Issuer Purchases of Equity Securities

Our Common Stock

Our common stock is traded on the NASDAQ Capital Market under the symbol "LIVE".

The following table sets forth the quarterly high and low sale prices per share of our common stock during the last two fiscal years. All prices commencing on February 12, 2014, reflect a 3:1 forward stock split.

	Quarter Ended		High		Low
2015	October 1 – December 31, 2014	\$	3.92	\$	2.09
	January 1 – March 31	\$	3.78	\$	2.83
	April 1 – June 30	\$	3.36	\$	2.48
	July 1 – September 30	\$	2.58	\$	1.43
2014	December 31, 2013	\$	4.29	\$	2.77
	January 1, 2014 – February 11, 2014		22.19		4.21
	February 12, 2014 - March 31, 2014	\$	9.48	\$	6.75
	June 30, 2014	\$	7.89	\$	2.38
	September 30, 2014	\$	4.90	\$	2.90

Holder of Record

On December 31, 2015, there were approximately 134 holders of record of our common stock according to our transfer agent. We have no record of the number of stockholders who hold their stock in "street name" with various brokers.

Dividend Policy

We have one class of authorized preferred stock (Series E Preferred Stock), of which there are currently 127,840 shares issued and outstanding. Each share of Series E Preferred Stock is entitled to and receives a dividend of \$0.015 per year. At September 30, 2015, we had accrued but unpaid dividends totaling approximately \$958.80. These dividends were paid in November 2015.

Presently, we do not pay dividends on our common stock. The timing and amount of future dividend payments on our common stock, if any, will be determined by our Board of Directors based upon our earnings, capital requirements and financial position, general economic conditions, alternative uses of capital, and other pertinent factors.

Issuer Purchases of Equity Securities

During our fiscal quarter ended September 30, 2015, neither we nor any "affiliated purchaser", as defined in Exchange Act Rule 10b-18(a)(3)), repurchased any shares of our common stock.

Securities Authorized for Issuance Under Equity Compensation Plans

Reference is made to Note 11 of the notes to our consolidated financial statements for certain disclosures about our equity compensation plans.

Recent Sales of Unregistered Securities

None.

ITEM 6. Selected Financial Data

Not applicable.

ITEM 7. Management’s Discussion and Analysis of Financial Condition and Results of Operations

For a description of our significant accounting policies and an understanding of the significant factors that influenced our performance during the year ended September 30, 2015, this “Management’s Discussion and Analysis of Financial Condition and Results of Operations” (hereafter referred to as “MD&A”) should be read in conjunction with the consolidated financial statements, including the related notes, appearing in Part I, Item 8 of this Annual Report on Form 10-K for the fiscal year ended September 30, 2015.

Note About Forward-Looking Statements

This Annual Report on Form 10-K includes statements that constitute “forward-looking statements.” These forward-looking statements are often characterized by the terms “may,” “believes,” “projects,” “intends,” “plans,” “expects,” or “anticipates,” and do not reflect historical facts. Specific forward-looking statements contained in this portion of the Annual Report include, but are not limited to our (i) belief in the continued growth of internet usage, particularly via mobile devices, and demand for web-based marketing; (ii) belief in the continued growth in the demand for local search and information, (iii) belief that small and medium businesses will continue to outsource their online marketing efforts to third parties; (iv) belief that we can cost-effectively expand into other cities due to the scalability of the LiveDeal.com platform; (v) belief that the cash on hand and additional cash generated from operations together with potential sources of cash through issuance of debt or equity will provide the company with sufficient liquidity for the next 12 months; and (vi) belief that the outcome of pending legal proceedings will not have a material adverse effect on business, financial position and results of operations, cash flow or liquidity.

Forward-looking statements involve risks, uncertainties and other factors, which may cause our actual results, performance or achievements to be materially different from those expressed or implied by such forward-looking statements. Factors and risks that could affect our results and achievements and cause them to materially differ from those contained in the forward-looking statements include those identified in our Annual Report on Form 10-K for the fiscal year ended September 30, 2015 under Item 1A “Risk Factors”, as well as other factors that we are currently unable to identify or quantify, but that may exist in the future.

In addition, the foregoing factors may generally affect our business, results of operations and financial position. Forward-looking statements speak only as of the date the statements were made. We do not undertake and specifically decline any obligation to update any forward-looking statements. Any information contained on our website www.livedeal.com or any other websites referenced in this Annual Report are not part of this Annual Report.

Our Company

Live Ventures Incorporated is a holding company for diversified businesses, which, together with our subsidiaries, we refer to as the “Company”, “Live Ventures”, “we”, “us” or “our.” Commencing in fiscal year 2015, we began a strategic shift in our business plan away from providing online marketing solutions for small and medium business to acquiring profitable companies in various industries that have demonstrated a strong history of earnings power. Prior to that shift, we primarily promoted online marketing solutions to small and medium businesses to help them boost customer awareness, gain visibility and manage their online presence under our Velocity Local™ brand. In 2013 we launched LiveDeal.com, real-time “deal engine” that connects restaurants across the United States and consumers via an platform. The LiveDeal.com platform targets restaurants in cities across the United States to help them use the platform to attract new customers. In addition, through our subsidiary, Modern Everyday, we maintain an online consumer products retailer.

We continue to actively develop, revise and evaluate our products, services and our marketing strategies in our businesses. As a result of the shift in our strategy, as of the fiscal year ended September 30, 2015, we decided to cease operating Live Goods, DealTicker and we discontinued our suite of online presence marketing products and solutions under the Velocity Local™ brand. Due to the shift in our business to diversifying our operations by acquiring businesses in several industries, we expect that revenues from our online marketplace business segment and our legacy products will continue to be diluted in the coming months and years.

Under the Live Ventures brand we seek opportunities to acquire profitable and well-managed companies. We will work closely with consultants who will help us identify target companies that fit within the criteria we have established for opportunities that will provide synergies with our businesses.

Our principal offices are located at 325 E. Warm Springs Road, Suite 102, Las Vegas, Nevada 89119, our telephone number is (702) 939-0231, and our corporate website (which does not form part of this report) is located at www.livedeal.com. Our common stock trades on the NASDAQ Capital Market under the symbol "LIVE".

Manufacturing Segment

In July 2015, we acquired a majority interest in Marquis Industries, Inc., a Georgia corporation, through our partially-owned subsidiary, Marquis Affiliated Holdings LLC. Marquis Industries is a leading carpet manufacturer and a manufacturer of innovative yarn products, as well as a reseller of hard surface flooring products. Over the last decade, Marquis has been an innovator and leader in the value-oriented polyester carpet sector, which is currently the market's fastest-growing fiber category. We focus on the residential, niche commercial, and hospitality end-markets and serve over 2,000 customers.

Since its founding in 1990, Marquis has built a strong reputation for outstanding value, styling, and customer service. Its innovation has yielded products and technologies that differentiate its brands in the flooring marketplace. Marquis's state-of-the-art operations enable high quality products, unique customization, and exceptionally short lead-times. Furthermore, the Company has recently invested in additional capacity to grow several attractive lines of business, including printed carpet and yarn extrusion. Through its A-O Division, utilizes its state-of-the-art yarn extrusion capacity to market monofilament textured yarn products to the artificial turf industry.

Online Marketplace Platform Segment

In September 2013, we launched LiveDeal.com. LiveDeal.com is a unique, real-time "deal engine" connecting merchants with consumers. Currently, we provide marketing solutions to a growing base of restaurants to boost customer awareness and merchant visibility on the Internet. We believe that we have developed the first-of-its-kind web/mobile platform providing restaurants with full control and flexibility to instantly publish customized offers whenever they wish to attract customers. Restaurants can sign up to use the LiveDeal platform at our website.

Highlights of LiveDeal.com include:

- an intuitive interface enabling restaurants to create limited-time offers and publish them immediately, or on a preset schedule that is fully customizable;
- state-of-the-art scheduling technology giving restaurants the freedom to choose the days, times and duration of the offers, enabling them to create offers that entice consumers to visit their establishment during their slower periods;
- advanced publishing options allowing restaurants to manage traffic by limiting the number of available vouchers to consumers;
- superior geo-location technology allowing multi-location restaurants to segment offers by location, attracting customers to slower locations while eliminating potential over-crowding at busier sites;
- innovating proprietary restaurant indexing methodology; and
- a user-friendly mobile and desktop web interface allowing consumers to easily browse, download, and instantly redeem "live" offers found on LiveDeal.com based on their location.

In 2014, the Livedeal.com iOS mobile App was approved by Apple for inclusion in Apple's App Store, and the Android App became available to the public in the Google Play Store.

We believe one of the primary challenges facing the dining industry is the inefficient and limited number of ways restaurants are able to market offers and promotions to their potential customers. Daily deal companies typically dictate offer terms, such as the discount amount and redemption details. This not only erodes potential profits for restaurant owners but could also drive traffic during already-busy periods for the restaurants. LiveDeal's model benefits both the restaurant and the consumer because it provides the restaurant the opportunity to create any offer they choose, limit the number of potential claimants of their promotion, publish the offer on days and at times of their choosing, and provides customers with relevant offers they can easily and quickly redeem while creating a cost-effective model for LiveDeal to grow and easily scale its operations. We expect to initially derive revenues through premium placement on the site, and we are also exploring various options for monetizing the website.

The Company, best known for migrating print yellow pages to the Internet in 1994, began to develop the model for LiveDeal.com after having worked closely with well-known publishers in the daily deal market. In mid-2013, we tested the beta platform in a number of cities, and the model has been well received by restaurants, consumers, and various restaurant associations. We launched LiveDeal.com in the San Diego and Los Angeles, California markets in September 2013 and December 2013, respectively. This year we launched a massive advertising campaign directed at over 35 cities to support the restaurant owners who have created more than 10,000 deals in over 8,000 restaurants in those cities. The Company believes it can cost-effectively expand into other cities due to the scalability of the LiveDeal.com platform, as restaurants can curate deals through our account managers or create specials on their own. In addition, individual customers transact directly with the restaurant, eliminating the need for the Company to act as an intermediary in the sale.

In order to leverage our consumer base, during fiscal 2014 we acquired three business that offer consumer products. We plan to incorporate the sale of consumer products into our livedeal.com website to make it a vertically integrated one-stop shop for all the needs of the everyday consumer. Below is a brief description of the businesses purchased in fiscal 2014.

Modern Everyday, Inc.,

Modern Everyday, Inc. (“MEI”), acquired in August 2014, has both a retail location and a web presence providing consumers with products that range from kitchen and dining products, apparel and sporting goods to children's toys and beauty products. Modern Everyday also has proprietary software that will give us the capability to track products and predict consumer behavior and spending habits.

Legacy and Merchants’ Services Segment

We developed and market a suite of products and services designed to meet the online marketing needs of SMBs at affordable prices. In August 2012, we commenced sourcing local deal and activities to strategic publishing partners under our LiveDeal[®] brand, which we refer to as promotional marketing. In November 2012, we commenced the sale of marketing tools that help local businesses manage their online presence under our Velocity Local[™] brand, which we refer to as online presence marketing. Our target customers for our Velocity Local[™] and our LiveDeal[®] brands are SMB owners who work long hours to deliver real value to their customers in their own communities that do not have the time or expertise to develop the powerful, multi-faceted, online marketing and advertising programs necessary for successful online marketing. Our offerings draw on a decade of experience servicing SMBs in the internet technology environment.

We continue to generate a significant portion of our revenue from servicing our existing customers under our legacy product offerings, primarily our InstantProfile[®] line of products and services. Because of the change in our business strategy and product lines, we no longer accept new customers under our legacy product offerings.

Business Acquisition

On July 6 and July 7, 2015, we, through our newly formed, wholly-owned subsidiary, Live Ventures, Inc. (“Live Ventures”), entered into a series of agreements in connection with our indirect purchase of Marquis Industries, Inc., a Georgia corporation (“Marquis Industries”), and its subsidiaries. Marquis Industries is a specialty, high-performance carpet yarn manufacturer, hard-surfaces re-seller, and top 10 high-end residential carpet manufacturer in the United States. The purchase and financing transactions were, in the aggregate, valued at approximately \$30 million. The purchase was effectuated between Marquis Affiliated Holdings LLC, a Delaware limited liability company (“Marquis Holdings”) that is 80% owned by Live Ventures. The remaining 20% of Marquis Holdings is owned by the former owners of Marquis Industries. In connection with the purchase and finance transaction, various persons and entities entered into a series of agreements (each of which is dated on or about July 6, 2015, with funding occurring on July 6 and July 7, 2015).

The purchase price was paid through a combination of debt financing that was provided by (i) the Bank of America Term and Revolving Loan in the aggregate amount of (x) approximately \$7.8 million for the term component and (y) approximately \$15 million for the revolving component and (ii) a mezzanine loan in an amount of up to \$7,000,000 provided by Isaac Capital Fund, a private lender whose managing member is Jon Isaac, our chief executive officer. In connection with operations of Marquis Industries after the closing of the purchase transaction, and as part of the Bank of America Term and Revolving Loan, Marquis Industries may borrow up to \$15 million (based on eligibility).

The Bank of America term loan bears interest at a variable rate based on a base rate plus a margin. The current base rate is the greatest of (a) Bank of America prime rate, (b) the current federal funds rate plus 0.50%, or (c) 30-day LIBOR plus 1.00% plus the margin, which varies, depending on circumstances and as of closing was for the term component: 1.00% in excess of the base rate or 2.00% in excess of LIBOR, and for the revolving component: 0.75% in excess of the base rate or 1.75% in excess of LIBOR. Monthly payments to Bank of America are approximately \$79,000 plus accrued interest. The term component is due and payable in July 2020, which is when the revolving component terminates.

The Isaac Capital Fund mezzanine loan bears interest at 12.5% with payment obligations of interest each month and all principal due in January 2021 (six months after the final payments are due under the Bank of America Term and Revolving Loan).

Critical Accounting Estimates and Assumptions

The preparation of our consolidated financial statements in conformity with accounting principles generally accepted in the United States of America requires our management to make many estimates and assumptions that may materially affect both our consolidated financial statements and related disclosures, such as reported amounts of assets and liabilities and disclosure of contingent assets and liabilities and the reported amounts of revenues and expenses during the reporting period, and the comparability of the information presented over different reporting periods. Estimates and assumptions are based on management's experience and other information available prior to the issuance of our financial statements. Our actual realized results may differ materially from management's initial estimates as reported. Summaries of our significant accounting policies are detailed in the notes to the consolidated financial statements, which are an integral component of this filing.

The discussion in this section of "critical" accounting estimates and assumptions is according to the disclosure guidelines of the SEC, wherein:

- the nature of the estimates or assumptions is material due to the levels of subjectivity and judgment necessary to account for highly uncertain matters or the susceptibility of such matters to change; and
- the impact of the estimates and assumptions on our financial condition or operating performance is material.

Besides those meeting these "critical" criteria, we make many other accounting estimates and assumptions in preparing our financial statements and related disclosures. Although not associated with "highly uncertain matters," these estimates and assumptions are also subject to revision as circumstances warrant, and materially different results may sometimes occur.

The following summarizes "critical" estimates and assumptions made by management in the preparation of the consolidated financial statements and related disclosures.

Revenue Recognition

Directory Services

Revenue is billed and recognized monthly for services subscribed in that specific month. We have historically utilized outside billing companies to perform billing services through two primary channels:

- direct ACH withdrawals; and
- inclusion on the customer's local telephone bill provided by their Local Exchange Carriers, or LECs.

For billings via ACH withdrawals, revenue is recognized when such billings are accepted. For billings via LECs, we recognize revenue based on net billings accepted by the LECs. Due to the periods of time for which adjustments may be reported by the LECs and the billing companies, we estimate and accrue for dilution and fees reported subsequent to year-end for initial billings related to services provided for periods within the fiscal year. Such dilution and fees are reported in cost of services in the accompanying consolidated statements of operations. Customer refunds are recorded as an offset to gross revenue.

Revenue for billings to certain customers that are billed directly by us and not through the outside billing companies is recognized based on estimated future collections. We continuously reviews this estimate for reasonableness based on its collection experience.

Deals Revenue

We recognize revenue from sales through our strategic publishing partners of discounted goods and services offered by our merchant clients (“Deals”) when the following criteria are met: persuasive evidence of an arrangement exists; delivery has occurred; the selling price is fixed or determinable; and collectability is reasonably assured. These criteria are met when the number of customers who purchase the daily deal exceeds the predetermined threshold, where, if applicable, the Deal has been electronically delivered to the purchaser and a listing of Deals sold has been made available to the merchant. At that time, our obligations to the merchant, for which we are serving as an agent, are substantially complete. Our remaining obligations, which are limited to remitting payment to the merchant, are inconsequential or perfunctory. We record as revenue an amount equal to the net amount it retains from the sale of Deals after paying an agreed upon percentage of the purchase price to the featured merchant excluding any applicable taxes. Revenue is recorded on a net basis because we are acting as an agent of the merchant in the transaction.

Product Revenue

We derive product revenue primarily from direct revenue and fulfillment partner revenue from product sales. Product revenue is recognized when the following revenue recognition criteria are met: (1) persuasive evidence of an arrangement exists; (2) delivery has occurred or the service has been provided; (3) the selling price or fee revenue earned is fixed or determinable; and (4) collection of the resulting receivable is reasonably assured. Revenue related to product sales is recognized when the above four criteria are met.

We evaluate the criteria outlined in ASC Topic 605-45, *Principal Agent Considerations*, in determining whether it is appropriate to record the gross amount of product sales and related costs or the net amount earned as commissions. When we are the primary obligor in a transaction, are subject to inventory risk, have latitude in establishing prices and selecting suppliers, or have several but not all of these indicators, revenue is recorded gross. If we are not the primary obligor in the transaction and amounts earned are determined using a fixed percentage, revenue is recorded on a net basis. Currently, all direct revenue and fulfillment partner revenue is recorded on a gross basis, as we are the primary obligor. We present revenue net of sales taxes.

Manufacturing Revenue

Revenues, including shipping and handling amounts, are recognized when the following criteria are met: there is persuasive evidence that a sales agreement exists, delivery has occurred or services have been rendered, the price to the buyer is fixed or determinable, and collectability is reasonably assured. Delivery is not considered to have occurred until the customer takes title to the goods and assumes the risks and rewards of ownership, which is generally on the date of shipment. At the time revenue is recognized, the Company records a provision for the estimated amount of future returns based primarily on historical experience and any known trends or conditions that exist at the time revenue is recognized. Revenues are recorded net of taxes collected from customers.

Allowance for Doubtful Accounts

We maintain an allowance for doubtful accounts, which includes allowances for customer refunds, dilution and fees from LEC billing aggregators and other uncollectible accounts. The determination of the allowance for doubtful accounts is dependent on many factors, including regulatory activity, changes in fee schedules by LEC service providers and recent historical trends.

Carrying Value of Intangible Assets

Our intangible assets consist of licenses for the use of internet domain names or universal resource locators, or URLs, capitalized website development costs and software, other information technology licenses, customer lists, non-compete agreements and marketing and technology-related intangibles acquired through acquisitions. All these assets are capitalized at their original cost (or at fair value for assets acquired through business combinations) and amortized over their estimated useful lives. We capitalize internally generated software and website development costs in accordance with the provisions of the FASB Accounting Standards Codification (“ASC”) ASC 350, “Intangibles – Goodwill and Other”.

We evaluate the recoverability of the carrying amount of intangible assets whenever events or changes in circumstances indicate that the carrying amount of these assets may not be fully recoverable. In the event of such changes, impairment would be assessed if the expected undiscounted net cash flows derived for the asset are less than its carrying amount.

Stock-Based Compensation

From time to time we grant restricted stock awards and options to employees, non-employees and our executives and directors. Such awards are valued based on the grant date fair-value of the instruments, net of estimated forfeitures. The value of each award is amortized on a straight-line basis over the vesting period.

Income Taxes

Income taxes are accounted for using the asset and liability method as prescribed by ASC 740 “Income Taxes”. Under this method, deferred income tax assets and liabilities are recognized for the future tax consequences attributable to temporary differences between the financial statement carrying amounts of existing assets and liabilities and their respective tax bases. Deferred income tax assets and liabilities are measured using enacted tax rates expected to apply to taxable income in the years in which these temporary differences are expected to be recovered or settled. The effect on deferred tax assets and liabilities of a change in tax rates is recognized in income in the period that includes the enactment date. A valuation allowance would be provided for those deferred tax assets for which if it is more likely than not that the related benefit will not be realized.

We have estimated net deferred income tax assets (net of valuation allowances) of \$0 at September 30, 2015 and September 30, 2014. A full valuation allowance has been established against all net deferred tax assets as of September 30, 2015 and September 30, 2014 based on estimates of recoverability. While we have optimistic plans for our new business strategy, we determined that such a valuation allowance was necessary given the current and expected near term losses and the uncertainty with respect to our ability to generate sufficient profits from our new business lines. Therefore, we established a valuation allowance for all deferred tax assets in excess of those expected to be realizable through the application of operating loss carrybacks.

For the year ended September 30, 2015, Marquis Industries, Inc. and subsidiaries is required to file a separate income return, and therefore, the income generated by these subsidiaries cannot be offset against the Company’s net operating losses.

Results of Operations

The following sets forth a discussion of our financial results for the year ended September 30, 2015 as compared to the year ended September 30, 2014. In evaluating our business, management reviews several key performance indicators including new customers, total customers in each line of business, revenues per customer, and customer retention rates. However, given the changing nature of our business strategy, we do not believe that presentation of these metrics would reveal any meaningful trends in our operations that are not otherwise apparent from the discussion of our financial results below. Generally, the significant changes in the results of operations when compared to the prior periods as noted below is a result of the acquisition of Marquis Industries we made in July 2015.

Revenues

	Revenues			
	2015	2014	Change	Percent
Year Ended September 30	\$33,369,866	\$7,265,276	\$26,104,590	359%

Revenues for the year ended September 30, 2015 increased by \$26,104,590, as compared to the year ended September 30, 2014, primarily due to the acquisition we made of Marquis Industries in July 2015. Revenue from our manufacturing segment increased from \$0 for the year ended September 30, 2014 to \$16,006,683 for the year ended September 30, 2015. We expect to generate approximately \$60-65 million in annual revenues from this segment. Revenue from our online marketplace platform segment increased by \$10,597,940 or 201% from \$5,270,508 for the year ended September 30, 2014 to \$15,868,448 for the year ended September 30, 2015. The significant increase is due to only 1.5 months of revenue from our acquisition of Modern Everyday in August 2014 were included in 2014 results versus a full 12 months in 2015. Revenue from our legacy and merchants' services segment decreased by \$500,033 or 25% from \$1,994,768 for the year ended September 30, 2014 to \$1,494,735 for the year ended September 30, 2015. We expect revenue from this segment to continue to decrease in the future.

Cost of Revenues

	Cost of Revenues			
	2015	2014	Change	Percent
Year Ended September 30	\$22,115,472	\$5,226,637	\$16,888,835	323%

Cost of revenues increased for the year ended September 30, 2015 as compared to the year ended September 30, 2014, by \$16,888,835. The increase in cost of revenue for the year ended September 30, 2015 is primarily due to increase in revenue as a result of our acquisition of Marquis Industries in July 2015. Cost of revenue were 66.3% and 71.9% of net revenues for the years ended September 30, 2015 and 2014, respectively, a decrease of 5.6%. The decrease is due to us selling higher margin products in fiscal 2015.

Gross Profit

	Gross Profit			
	2015	2014	Change	Percent
Year Ended September 30	\$11,254,394	2,038,639	9,215,755	452%

Gross profit increased for the year ended September 30, 2015 by \$9,215,755, as compared to the year ended September 30, 2014, primarily due to the increase in revenues from our acquisition of Marquis Industries in July 2015. The gross profit percentage for year ended September 30, 2015 was 33.7% compared to 28.1% for the year ended September 30, 2014. Our gross profit percentage from our legacy and merchants' services segment was 89.9% and 80.4% for the years ended September 30, 2015 and 2014, respectively, and our gross profit percentage for our online marketplace platform segment was 36.1% and 8.3% for the years ended September 30, 2015 and 2014, respectively. Our gross profit percentage from our newly acquired manufacturing segment was 26.2%. We were able to significantly improve our gross margin for our online marketplace platform segment by reducing our product costs and focusing on selling higher margin products.

General and Administrative Expenses

	General and Administrative Expenses			
	2015	2014	Change	Percent
Year Ended September 30	\$10,992,356	\$5,644,218	\$5,348,138	95%

General and administrative expenses increased for the year ended September 30, 2015 as compared to year ended September 30, 2014 by \$5,348,138. The increase for the year ended September 30, 2015 compared to the same period in 2014 is principally a result of the acquisition of Marquis Industries in July 2015 that incurred \$2,234,855 in general and administrative expenses. In addition, during the year ended September 30, 2015 we issued 600,000 shares of our common stock to two of our executives valued at \$1,518,000 as a bonus for services rendered during fiscal years 2012, 2013 and 2014. We also issued 191,136 shares of our common stock to employees and consultants for services rendered valued at \$498,059. In addition we issued 450,000 options to one of our executives that resulted in a charge to earnings of \$636,142 during the year ended September 30, 2015.

Sales and Marketing Expenses

	Sales and Marketing Expenses			
	2015	2014	Change	Percent
Year Ended September 30	\$6,684,833	\$893,705	\$5,791,128	648%

Sales and marketing expense increased for the year ended September 30, 2015 as compared to year ended September 30, 2014 primarily due to expenses associated with marketing activities of our acquisition of Marquis Industries and a full 12 months of sales and marketing expense for Modern Everyday for the year ended September 30, 2015 compared to only 1.5 months for the year ended September 30, 2014.

Impairment of Intangible Assets

	Impairment of Intangible Assets			
	2015	2014	Change	Percent
Year Ended September 30	\$3,713,472	\$0	\$3,713,472	n/a

During the year ended September 30, 2015, we determined that certain of our intangible assets and goodwill were impaired and took a charge to earnings of \$3,713,472. There were no such charges during 2014.

Operating Loss

	Operating Loss			
	2015	2014	Change	Percent
Year Ended September 30	\$(10,136,267)	\$(4,499,284)	\$(5,636,983)	37%

The increase in operating loss for the year ended September 30, 2015 as compared to year ended September 30, 2014 resulted from a variety of factors, including the impairment of intangible assets, the increases in general and administrative expenses due to stock and stock options granted to executives and the sales and marketing expenses as described above.

Total Other Income (Expense)

	Total Other Income (Expense)			
	2015	2014	Change	Percent
Year Ended September 30	\$(4,200,018)	\$(162,097)	\$(4,037,921)	2491%

The large increase in other expense in the year ended September 30, 2015 as compared to year ended September 30, 2014 was primarily due to interest expense incurred during the year ended September 30, 2015, relating to the amortization of debt discounts, the issuance of warrants upon the conversion of debt and the issuance of common stock for the original issue discount on a \$10 million credit facility.

Net Loss Attributable to Live Venture, Inc.

	Net Loss			
	2015	2014	Change	Percent
Year Ended September 30	\$(14,666,129)	\$(4,661,381)	\$(10,004,748)	215%

The increase in the net loss for the year ended September 30, 2015, as compared to the net loss for the year ended September 30, 2014 was primarily attributable to the impairment of intangible assets the increase in general and administrative expenses and other expense, as described above.

Liquidity and Capital Resources

The Company's cash and cash equivalents at September 30, 2015 was \$2,727,818 compared to \$8,114,682 at September 30, 2014, a decrease of \$5,386,864. The principal reason for this decrease was the cash used to purchase Marquis Industries, Inc. in July 2015.

Cash Flows from Operating Activities

Net cash used in operating activities was \$1,019,318 for the year ended September 30, 2015 as compared to \$5,194,654 for the same period in 2014. This change was due to an increase of \$10,050,904 in our net loss, partially offset by an increase of non-cash expenses of \$10,468,007 which during the year ended September 30, 2015 included \$2,198,003 of interest expense associated with convertible debt and warrants, \$2,004,202 of interest expense associated with loan fees, \$2,016,059 of common stock issued for services, \$3,713,472 of impairment of intangible assets and goodwill. Cash flows from operations were also impacted by a decrease of approximately \$3,382,233 in changes in working capital and other assets in the year ended September 30, 2015 as compared to the same period in 2014. This working capital variance resulted primarily from the changes in inventory and accounts payable. Our primary source of cash inflows has historically been net remittances from directory services customers processed in the form of ACH billings and LEC billings. Our most significant cash outflows include payments for general operating expenses, including payroll costs, and general and administrative expenses that typically occur within close proximity of expense recognition.

Cash Flows from Investing Activities

Our cash flows used in investing activities during the year ended September 30, 2015 consisted of \$5,503,056 for the acquisition of a new subsidiary, net of \$496,944 cash acquired; \$64,820 of expenditures for intangible assets and \$151,937 of purchases of equipment, offset by proceeds of \$153,500 from the sale of assets. Our cash flows used in investing activities during the year ended September 30, 2014 consisted of \$1,259,483 for the acquisition of a business, \$19,265 of expenditures for intangible assets and \$79,808 of purchases of equipment.

Cash Flows from Financing Activities

Our cash flows from financing activities during the year ended September 30, 2015 consisted of \$538,441 from the sale of shares of our common stock, \$1,247,185 from the issuance of notes payable, \$1,200,000 contribution from noncontrolling interest, \$100,000 from issuances of convertible debt offset by repayment of a note payable of \$1,886,859. Our cash flows from financing activities during the year ended September 30, 2014 consisted of \$13,681,054 from the sale of shares of our common stock and \$823,595 from issuances of convertible debt offset by repayment of a note payable of \$582,348.

Working Capital

We had working capital of \$14,812,654 as of September 30, 2015 compared to working capital of \$9,497,200 as of September 30, 2014 with current assets increasing by \$11,999,378 and current liabilities increasing by \$6,683,924 from September 30, 2014 to September 30, 2015. Such changes in working capital are primarily attributable to the increase in our operating net loss, the results of our financing activities and the acquisition of Marquis Industries in July 2015.

At-The-Market Offerings of Common Stock (Chardan Capital Markets LLC)

During the year ended September 30, 2014, we sold 3,115,147 shares of our common stock, resulting in gross proceeds of \$14,093,582, in an at-the-market offering, in which Chardan Capital Markets LLC (“Chardan”) was our agent. We received net proceeds of \$13,681,054. We paid Chardan a total commission of \$412,528 in connection with such sales. During the year ended September 30, 2015, we sold 155,000 shares of our common stock resulting in gross proceeds of \$546,652, in an at-the-market offering, in which Chardan was our agent. The Company received net proceeds of \$538,441. The Company paid Chardan a total commission of \$8,211 in connection with such sales.

Revolver Loan and Term Loan

In connection with the purchase of Marquis Industries Inc., we entered into an agreement with Bank of America for a Term and Revolving Loan for approximately \$7.8 million for the term component and approximately \$15 million for the revolving component. As part of the Bank of America Revolving Loan, Marquis Industries may borrow up to \$15 million (based on eligibility). At September 30, 2015 we had \$7,225,745 and \$7,628,438 outstanding on the Revolver Loan and Term Loan, respectively.

Future Sources of Cash; New Products and Services

We will require additional capital to finance our planned business operations as we continue to build and market our LiveDeal.com, fund our growing operations including the recent acquisition of Marquis Industries, and develop other new products. In addition, we may require additional capital to finance acquisitions or other strategic investments in our business. Other sources of financing may include stock issuances; additional loans (for example, through our sale and issuance of convertible notes pursuant to the \$10 million line of credit that we entered into in January 2014, as amended); or other forms of financing. Any financing obtained may further dilute or otherwise impair the ownership interest of our existing stockholders. If we are unable to generate positive cash flows or raise additional capital in a timely manner or on acceptable terms, we may (i) not be able to make acquisitions or other strategic investments in our business, (ii) modify, delay or abandon some or all of our business plans, and/or (iii) be forced to cease operations.

While we believe that our existing cash on hand is sufficient to finance our operations for the next twelve months, there can be no assurance that we will generate profitability or positive operating cash flows in the near future. To the extent that we cannot achieve profitability or positive operating cash flows, our business will be materially and adversely affected. Further, our business is likely to experience significant volatility in our revenues, operating losses, personnel involved, products or services for sale, and other business parameters, as management implements our new strategies and responds to operating results.

Contractual Obligations

The following table summarizes our contractual obligations consisting of operating lease agreements and debt obligations and the effect such obligations are expected to have on our future liquidity and cash flows:

	Payments due by Period				Total
	Less than One Year	One to Three Years	Three to Five Years	More Than Five Years	
Notes payable	\$ 1,443,036	\$ 1,910,688	\$ 11,988,151	\$ 669,351	\$ 16,011,226
Notes payable - related party				6,495,825	6,495,825
Lease commitments	420,704	499,434	408,364		1,328,502
Software license obligation	1,500,000				1,500,000
Total	<u>\$ 3,363,740</u>	<u>\$ 2,410,122</u>	<u>\$ 12,396,515</u>	<u>\$ 7,165,176</u>	<u>\$ 25,335,553</u>

Off-Balance Sheet Arrangements

At September 30, 2015, we had no off-balance sheet arrangements, commitments or guarantees that require additional disclosure or measurement.

ITEM 7A. Quantitative and Qualitative Disclosures about Market Risk

As of September 30, 2014, we did not participate in any market risk-sensitive commodity instruments for which fair value disclosure would be required. We believe that we are not subject in any material way to other forms of market risk, such as foreign currency exchange risk or foreign customer purchases (of which there were none in fiscal 2013 or 2012) or commodity price risk.

ITEM 8. Financial Statements and Supplementary Data

**LIVE VENTURES INCORPORATED AND SUBSIDIARIES
INDEX TO CONSOLIDATED FINANCIAL STATEMENTS
FOR THE YEARS ENDED SEPTEMBER 30, 2015 AND 2014**

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CERTIFIED PUBLIC ACCOUNTANTS

REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

The Board of Directors and Stockholders' of
Live Ventures, Inc. and Subsidiaries:

We have audited the accompanying consolidated balance sheets of Live Ventures, Inc. and Subsidiaries (the "Company") as of September 30, 2015 and 2014, and the related consolidated statements of operations, changes in stockholders' equity, and cash flows for the years then ended. These consolidated financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on these consolidated financial statements based on our audits.

We conducted our audits in accordance with the standards of the Public Company Accounting Oversight Board (United States of America). Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. The Company is not required to have, nor were we engaged to perform, an audit of its internal control over financial reporting. Our audits included consideration of internal control over financial reporting as a basis for designing audit procedures that we considered appropriate under the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Company's internal control over financial reporting. Accordingly, we express no such opinion. An audit includes examining on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

In our opinion, the consolidated financial statements referred to above present fairly, in all material respects, the consolidated financial position of Live Ventures, Inc. and Subsidiaries as of September 30, 2015 and 2014, and the results of their operations and their cash flows for the years then ended, in conformity with accounting principles generally accepted in the United States of America.

/s/ Anton & Chia, LLP

Newport Beach, California
January 13, 2016

LIVE VENTURES, INCORPORATED AND SUBSIDIARIES
CONSOLIDATED BALANCE SHEETS

	<u>September 30,</u> <u>2015</u>	<u>September 30,</u> <u>2014</u>
Assets		
Cash and cash equivalents	\$ 2,727,818	\$ 8,114,682
Accounts receivable, net	8,243,992	854,583
Inventories, net	13,335,598	4,277,145
Prepaid expenses and other current assets	<u>1,522,027</u>	<u>583,647</u>
Total current assets	25,829,435	13,830,057
Property and equipment, net	12,481,901	153,114
Deposits and other assets	36,090	65,161
Intangible assets, net	1,516,930	3,071,210
Goodwill	<u>800,000</u>	<u>1,169,904</u>
Total assets	<u>\$ 40,664,356</u>	<u>\$ 18,289,446</u>
Liabilities and Stockholders' Equity		
Liabilities:		
Accounts payable	\$ 5,536,796	\$ 2,282,887
Accrued liabilities	3,660,949	1,046,030
Income tax payable	376,000	-
Derivative liability	-	83,580
Note payable, net of debt discount	<u>1,443,036</u>	<u>920,360</u>
Total current liabilities	11,016,781	4,332,857
Notes payable, net of current portion	14,568,190	638,969
Note payable, related party	6,495,825	-
Contingent consideration from business combination	<u>316,000</u>	<u>251,000</u>
Total Liabilities	<u>32,396,796</u>	<u>5,222,826</u>
Commitment and contingencies	-	-
Stockholders' equity:		
Series E convertible preferred stock, \$0.001 par value, 200,000 shares authorized, 127,840 shares issued and outstanding at September 30, 2015 and September 30, 2014, liquidation preference \$38,203	10,866	10,866
Common stock, \$0.001 par value, 30,000,000 shares authorized, 16,903,014 and 14,525,248 shares issued and outstanding at September 30, 2015 and 2014, respectively	16,908	14,531
Paid in capital	52,950,945	45,038,176
Accumulated deficit	<u>(46,665,003)</u>	<u>(31,996,953)</u>
Total Live Ventures stockholders' equity	6,313,716	13,066,620
Noncontrolling interest	<u>1,953,844</u>	<u>-</u>
Total equity	<u>8,267,560</u>	<u>13,066,620</u>
Total liabilities and equity	<u>\$ 40,664,356</u>	<u>\$ 18,289,446</u>

The accompanying notes are an integral part of these audited consolidated financial statements.

LIVE VENTURES, INCORPORATED AND SUBSIDIARIES
CONSOLIDATED STATEMENTS OF OPERATIONS

	Years Ended September 30,	
	2015	2014
Revenues	\$ 33,369,866	\$ 7,265,276
Cost of revenues	22,115,472	5,226,637
Gross profit	<u>11,254,394</u>	<u>2,038,639</u>
Operating expenses:		
General and administrative expenses	10,992,356	5,644,218
Sales and marketing expenses	6,684,833	893,705
Impairment of intangible assets	3,713,472	–
Total operating expenses	<u>21,390,661</u>	<u>6,537,923</u>
Operating loss	(10,136,267)	(4,499,284)
Other expense:		
Interest expense, net	(4,485,661)	(458,934)
Other income	202,063	240,565
Gain on derivative liability	83,580	56,272
Total other expense, net	<u>(4,200,018)</u>	<u>(162,097)</u>
Loss before provision for income taxes	(14,336,285)	(4,661,381)
Provision for income taxes	376,000	–
Net loss	(14,712,285)	(4,661,381)
Net income attributed to noncontrolling interest	(46,156)	–
Net loss attributed to Live Ventures, Inc.	<u>\$ (14,666,129)</u>	<u>\$ (4,661,381)</u>
Loss per share - basic and diluted:	<u>\$ (0.93)</u>	<u>\$ (0.35)</u>
Weighted average common shares outstanding:		
Basic and diluted	<u>15,765,818</u>	<u>13,144,248</u>

The accompanying notes are an integral part of these audited consolidated financial statements.

LIVE VENTURES INCORPORATED AND SUBSIDIARIES
CONSOLIDATED STATEMENTS OF CHANGES IN STOCKHOLDER'S EQUITY

	Common Stock		Preferred Stock		Paid-In Capital	Accumulated Deficit	Total	Noncontrolling Interest	Total Equity
	Shares	Amount	Shares	Amount					
Balance, September 30, 2013	11,335,674	\$ 11,335	127,840	\$ 10,866	\$ 30,481,179	\$ (27,333,647)	\$ 3,169,733	\$ -	\$ 3,169,733
Series E preferred stock dividends						(1,925)	(1,925)		(1,925)
Stock based compensation					167,985		167,985		167,985
Beneficial conversion feature on convertible debt					500,000		500,000		500,000
Issuance of common stock for services	24,427	31			9,623		9,654		9,654
Issuance of common stock for cash	3,115,147	3,115			13,677,939		13,681,054		13,681,054
Issuance of common stock for MEI purchase	50,000	50			201,450		201,500		201,500
Net loss						(4,661,381)	(4,661,381)		(4,661,381)
Balance, September 30, 2014	14,525,248	14,531	127,840	10,866	45,038,176	(31,996,953)	13,066,620	-	13,066,620
Series E preferred stock dividends						(1,921)	(1,921)		(1,921)
Stock based compensation					712,538		712,538		712,538
Repricing of stock option exercise price					54,677		54,677		54,677
Value of warrants issued with debt conversion					1,853,473		1,853,473		1,853,473
Beneficial conversion feature on convertible debt					100,000		100,000		100,000
Issuance of common stock for services	791,136	791			2,015,268		2,016,059		2,016,059
Issuance of common stock for cash	155,000	155			538,286		538,441		538,441
Issuance of common stock for conversion of debt	801,378	801			634,955		635,756		635,756
Issuance of common stock for loan fees	630,252	630			2,003,572		2,004,202		2,004,202
Fair value of noncontrolling interest								2,000,000	2,000,000
Net loss						(14,666,129)	(14,666,129)	(46,156)	(14,712,285)
Balance, September 30, 2015	16,903,014	\$ 16,908	127,840	\$ 10,866	\$ 52,950,945	\$ (46,665,003)	\$ 6,313,716	\$ 1,953,844	\$ 8,267,560

The accompanying notes are an integral part of these consolidated financial statements.

LIVE VENTURES INCORPORATED AND SUBSIDIARIES
CONSOLIDATED STATEMENTS OF CASH FLOWS

	Years Ended September 30,	
	2015	2014
OPERATING ACTIVITIES:		
Net loss	\$ (14,712,285)	\$ (4,661,381)
Adjustments to reconcile net loss to net cash used in operating activities:		
Depreciation and amortization	1,047,752	490,256
Non-cash interest expense associated with convertible debt and warrants	2,198,003	423,968
Non-cash interest expense associated with loan fees	2,004,202	-
Non-cash change in fair value of derivative liability	(83,580)	(56,272)
Stock based compensation expense	712,538	167,985
Repricing of stock option exercise price	54,677	-
Writedown of assets		315,306
Non-cash issuance of common stock for services	2,016,059	9,654
Provision for uncollectible accounts	24,819	11,972
Reserve for obsolete inventory	255,110	-
(Gain) loss on disposal of assets	(104,966)	7,210
Impairment of intangible assets	3,713,472	-
Changes in assets and liabilities:		
Accounts receivable	(152,040)	(296,520)
Prepaid expenses and other current assets	(124,550)	(400,301)
Inventories	1,913,796	(2,984,031)
Deposits and other assets	29,071	1,204
Accounts payable	(885,921)	1,444,820
Accrued liabilities	698,525	331,476
Income tax payable	376,000	-
Net cash used in operating activities	(1,019,318)	(5,194,654)
INVESTING ACTIVITIES:		
Acquisition of businesses, net of cash acquired	(5,503,056)	(1,259,483)
Expenditures for intangible assets	(64,820)	(19,265)
Proceeds from the sale of assets	153,500	1,400
Purchases of property and equipment	(151,937)	(79,808)
Net cash used in investing activities	(5,566,313)	(1,357,156)
FINANCING ACTIVITIES:		
Issuance of common stock for cash, net of issuance costs	538,441	13,681,054
Proceeds from notes payable	1,247,185	-
Payments on notes payable	(1,886,859)	(582,348)
Payments on preferred stock dividends	-	(17,267)
Contribution by noncontrolling interest	1,200,000	-
Proceeds from issuance of convertible debt	100,000	823,595
Net cash provided by financing activities	1,198,767	13,905,034
INCREASE (DECREASE) IN CASH AND CASH EQUIVALENTS	(5,386,864)	7,353,224
CASH AND CASH EQUIVALENTS, beginning of period	8,114,682	761,458
CASH AND CASH EQUIVALENTS, end of period	\$ 2,727,818	\$ 8,114,682
Supplemental cash flow disclosures:		
Interest paid	\$ 24,312	\$ 754
Income taxes paid	\$ -	\$ -
Noncash financing and investing activities:		
Recognition of contingent beneficial conversion feature	\$ 100,000	\$ 500,000
Conversion of notes payable and accrued interest into common stock	\$ 635,756	\$ -
Accrued and unpaid dividends	\$ 1,921	\$ 1,925

The accompanying notes are an integral part of these consolidated financial statements.

LIVE VENTURES INCORPORATED AND SUBSIDIARIES
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS
FOR THE YEARS ENDED SEPTEMBER 30, 2015 AND 2014

Note 1: Organization and Basis of Presentation

The accompanying consolidated financial statements include the accounts of Live Ventures, Incorporated, a Nevada corporation, and its subsidiaries (collectively the "Company"). Commencing in fiscal year 2015, the Company began a strategic shift in its business plan away from providing online marketing solutions for small and medium business to acquiring profitable companies in various industries that have demonstrated a strong history of earnings power. The Company continues to actively develop, revise and evaluate its products, services and its marketing strategies in its businesses. Under the Live Ventures brand the Company seeks opportunities to acquire profitable and well-managed companies. The Company believes that with the proper positioning and its investment capital these companies can become very profitable. Although the Company will continue to operate LiveDeal.com and our other subsidiaries that are online consumer products retailers, the Company will no longer limit its operations to the online marketplace. With its recent acquisition of Marquis Industries, Inc., the Company became engaged in the manufacture and sale of carpet and the sale of vinyl and wood floorcoverings.

Effective October 7, 2015, the Company changed its corporate name from LiveDeal, Inc. to Live Ventures Incorporated.

Liquidity

The Company had a net loss of \$14.7 million and \$4.7 million for the years ended September 30, 2015 and 2014, respectively. The Company had approximately an operating cash outflow of approximately \$(1.0) million and \$(5.2) million for the years ended September 30, 2015 and 2014. The Company sold shares of its common stock during the years ended September 30, 2015 and 2014 for \$0.5 million and \$13.7 million, respectively. The Company had cash of \$2.7 million as of September 30, 2015. Management believes the Company's cash on hand and additional cash generated from operations, including the operations of Marquis, together with potential sources of cash through the issuance of debt or equity will provide the Company with sufficient liquidity for the next 12 months.

While the Company believes that its existing cash on hand plus cash generated from operations are sufficient to finance our operations for the next twelve months, there can be no assurance that the Company will generate profitability or positive operating cash flows in the near future. To the extent that the Company cannot achieve profitability or positive operating cash flows, the Company's business will be materially and adversely affected. Further, the Company's business is likely to experience significant volatility in its revenues, operating losses, personnel involved, products or services for sale, and other business parameters, as management implements and revises our strategies and responds to operating results and market conditions.

All data for common stock, options and warrants have been retroactively reflected the 3-for-1 forward stock split (which took effect on February 11, 2014) for all periods presented. In addition, all common stock prices, and per share data for all periods presented have been adjusted to reflect the 3-for-1 forward stock split. See Note 8 for details.

Note 2: Summary of Significant Accounting Policies

Principles of Consolidation

The accompanying consolidated financial statements represent the consolidated financial position and results of operations of the Company and its subsidiaries as follows:

<u>Company</u>	<u>Percentage Owned</u>	<u>Parent</u>
Live Ventures, Inc.	100%	Live Ventures, Incorporated
Telco Billing, Inc.	100%	Live Ventures, Incorporated
Telco of Canada, Inc.*	100%	Telco Billing, Inc.
LiveDeal, Inc. - Santa Clara*	100%	Live Ventures, Incorporated
Local Marketing Experts, Inc.*	100%	Live Ventures, Incorporated
Velocity Marketing Concepts, Inc.	100%	Live Ventures, Incorporated
247 Marketing, Inc.*	100%	Live Ventures, Incorporated
Velocity Local, Inc.	100%	Live Ventures, Incorporated
Modern Everyday, Inc.	100%	Live Ventures, Incorporated
Modern Everyday, LLC	100%	Modern Everyday, Inc.
Super Nova, LLC	100%	Modern Everyday, Inc.
Live Goods, LLC	100%	Live Ventures, Incorporated
DealTicker, Inc.*	100%	Live Goods, LLC
Marquis Affiliated Holdings, LLC	80%	Live Ventures, Inc.
Marquis Industries, Inc.	100%	Marquis Affiliated Holdings, LLC
A-O Industries, LLC	100%	Marquis Industries, Inc.
Astro Carpet Mills, LLC	100%	Marquis Industries, Inc.
Constellation Industries, LLC	100%	Marquis Industries, Inc.
S F Commercial Properties, LLC	100%	Marquis Industries, Inc.

* these entities were inactive for more than a year and subsequently closed in October 2015 as approved by the Board of Directors on September 30, 2015.

The results of operations for Live Goods, LLC, DealTicker, Inc., Modern Everyday, Inc. and Marquis Industries, Inc. have only been included since the date of acquisition of March 7, 2014, May 5, 2014, August 24, 2014 and July 6, 2015, respectively. All intercompany transactions and balances have been eliminated in consolidation.

Noncontrolling Interest

On July 6, 2015, the Company, through MAH, acquired 80% interest in Marquis. The transaction was accounted for under the acquisition method of accounting, with the purchase price allocated based on the fair value of the individual assets acquired and liabilities assumed.

The Company follows Financial Accounting Standards Board (“FASB”) Accounting Standards Codification (“ASC”) Topic 810, “Consolidation,” which governs the accounting for and reporting of non-controlling interests (“NCIs”) in partially owned consolidated subsidiaries and the loss of control of subsidiaries. Certain provisions of this standard indicate, among other things, that NCIs be treated as a separate component of equity, not as a liability, that increases and decreases in the parent’s ownership interest that leave control intact be treated as equity transactions rather than as step acquisitions or dilution gains or losses, and that losses of a partially owned consolidated subsidiary be allocated to the NCI even when such allocation might result in a deficit balance. This standard also required changes to certain presentation and disclosure requirements.

The net income attributed to the NCI is separately designated in the accompanying consolidated statements of operations. Losses attributable to the NCI in a subsidiary may exceed the NCI’s interests in the subsidiary’s equity. The excess attributable to the NCI is attributed to those interests. The NCI shall continue to attribute its share of losses even if that attribution results in a deficit NCI balance.

Use of Estimates

The preparation of the consolidated financial statements in conformity with U.S. generally accepted accounting principles requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the consolidated financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates.

Significant estimates made in connection with the accompanying consolidated financial statements include the estimate of dilution and fees associated with LEC billings, the estimated reserve for doubtful accounts receivable, estimated forfeiture rates for stock-based compensation, fair values in connection with the analysis of goodwill and long-lived assets for impairment, fair value of derivative liability, current portion of note payable, valuation allowances against net deferred tax assets and estimated useful lives for intangible assets and property and equipment.

Financial Instruments

Financial instruments consist primarily of cash, cash equivalents, accounts receivable, advances to affiliates and obligations under accounts payable, accrued expenses and notes payable. The carrying amounts of cash, cash equivalents, accounts receivable, accounts payable, accrued expenses, long term loans, and notes payable approximate fair value because of the short maturity of those instruments.

Cash and Cash Equivalents

This includes all short-term highly liquid investments that are readily convertible to known amounts of cash and have original maturities of three months or less. At times, cash deposits may exceed FDIC-insured limits. At September 30, 2015 and 2014, the amount the Company had on deposit that exceeded the FDIC-insured limits was \$2,471,259 and \$7,508,924, respectively. The Company has not experienced any losses related to a concentration of cash or cash equivalents in an FDIC insured financial institution.

Accounts Receivable

The Company grants credit to customers under credit terms that it believes are customary in the industry and does not require collateral to support customer receivables. This allowance is maintained at a level which the Company believes is sufficient to cover potential credit losses and receivables are only written off to bad debt expense as uncollectible after all reasonable collection efforts have been made.

Pursuant to the terms of the arrangement, the Company, from time to time, shall sell to the Factor certain of its accounts receivable balances on a non-recourse basis for credit approved accounts. The Factor shall purchase the account receivable for the gross amount of the respective invoices, less factoring commissions, trade and cash discounts. The factor shall be entitled to charge the Company with a factoring commission for each account which equal to 0.75%-1% of the gross amount of the account as of the date of purchase, plus interest to be calculated at 3.25%-6% per annum. The minimum annual commission of \$75,000 per contract year. The total amount of accounts receivable factored was \$4,772,004 and \$0 as of September 30, 2015 and 2014, respectively.

Factored receivables are sold without recourse with substantially all of the balance receivable from two factors. The Company performs ongoing credit evaluations of its customers' financial conditions and does not require collateral to support customer receivables. The Company establishes an allowance for claims and doubtful accounts based upon factors surrounding the credit risk of specific customers, historical trends and other information.

Allowance for Doubtful Accounts

The Company maintains an allowance for doubtful accounts, which includes allowances for accounts and factored receivables, customer refunds, dilution and fees from LEC billing aggregators and other uncollectible accounts. The allowance for doubtful accounts is based upon historical bad debt experience and periodic evaluations of the aging and collectability of the accounts receivable. This allowance is maintained at a level which the Company believes is sufficient to cover potential credit losses and receivables are only written off to bad debt expense as uncollectible after all reasonable collection efforts have been made. The Company has also purchased accounts receivable credit insurance to cover non-factored receivables which helps reduce potential losses due to doubtful accounts. At September 30, 2015 and 2014, the allowance for doubtful accounts was \$1,107,707 and \$1,101,258, respectively.

Inventories

Inventories are valued at the lower of the inventory's cost (first in, first out basis) or the current market price of the inventory. Management compares the cost of inventory with its market value and an allowance is made to write down inventory to market value, if lower. At September 30, 2015 and 2014, the allowance for obsolete inventory was \$402,278 and \$252,569, respectively.

Property and Equipment

Property and equipment are stated at cost less accumulated depreciation. Expenditures for repairs and maintenance are charged to expense as incurred and additions and improvements that significantly extend the lives of assets are capitalized. Upon sale or other retirement of depreciable property, the cost and accumulated depreciation are removed from the related accounts and any gain or loss is reflected in operations. Depreciation is computed on the straight-line method over the estimated useful lives of the assets ranging from three to forty years. Depreciation expense was \$472,220 and \$48,278 for the years ended September 30, 2015 and 2014, respectively.

Revenue Recognition

Directory Services

Revenue is billed and recognized monthly for services subscribed in that specific month. The Company has historically utilized outside billing companies to perform billing services through two primary channels:

- direct ACH withdrawals; and
- inclusion on the customer's local telephone bill provided by their Local Exchange Carriers, or LECs.

For billings via ACH withdrawals, revenue is recognized when such billings are accepted. For billings via LECs, the Company recognizes revenue based on net billings accepted by the LECs. Due to the periods of time for which adjustments may be reported by the LECs and the billing companies, the Company estimates and accrues for dilution and fees reported subsequent to year-end for initial billings related to services provided for periods within the fiscal year. Such dilution and fees are reported in cost of services in the accompanying consolidated statements of operations. Customer refunds are recorded as an offset to gross revenue.

Revenue for billings to certain customers that are billed directly by the Company and not through the outside billing companies is recognized based on estimated future collections which is reasonably assured. The Company continuously reviews this estimate for reasonableness based on its collection experience.

Deals Revenue

The Company recognizes revenue from its sales through its strategic publishing partners of discounted goods and services offered by its merchant clients ("Deals") when the following criteria are met: persuasive evidence of an arrangement exists; delivery has occurred; the selling price is fixed or determinable; and collectability is reasonably assured. These criteria are met when the number of customers who purchase the daily deal exceeds the predetermined threshold, where, if applicable, the Deal has been electronically delivered to the purchaser and a listing of Deals sold has been made available to the merchant. At that time, the Company's obligations to the merchant, for which it is serving as an agent, are substantially complete. The Company's remaining obligations, which are limited to remitting payment to the merchant, are inconsequential or perfunctory. The Company records as revenue an amount equal to the net amount it retains from the sale of Deals after paying an agreed upon percentage of the purchase price to the featured merchant excluding any applicable taxes. Revenue is recorded on a net basis because the Company is acting as an agent of the merchant in the transaction.

Deferred Revenue

In some instances, the Company receives payments in advance of rendering services, whereupon such revenues are deferred until the related services are rendered. There is no deferred revenue as of September 30, 2015 and 2014.

Product Revenue

The Company derives product revenue primarily from direct revenue and fulfillment partner revenue from product sales. Product revenue is recognized when the following revenue recognition criteria are met: (1) persuasive evidence of an arrangement exists; (2) delivery has occurred or the service has been provided; (3) the selling price or fee revenue earned is fixed or determinable; and (4) collection of the resulting receivable is reasonably assured.

The Company evaluates the criteria outlined in ASC Topic 605-45, *Principal Agent Considerations*, in determining whether it is appropriate to record the gross amount of product sales and related costs or the net amount earned as commissions. When the Company is the primary obligor in a transaction, is subject to inventory risk, has latitude in establishing prices and selecting suppliers, or has several but not all of these indicators, revenue is recorded gross. If we are not the primary obligor in the transaction and amounts earned are determined using a fixed percentage, revenue is recorded on a net basis. Currently, all direct revenue and fulfillment partner revenue is recorded on a gross basis, as the Company is the primary obligor. The Company presents revenue net of sales taxes.

Manufacturing Revenue

Revenues from the sale of carpet products, including shipping and handling amounts, are recognized when the following criteria are met: there is persuasive evidence that a sales agreement exists, delivery has occurred or services have been rendered, the price to the buyer is fixed or determinable, and collectability is reasonably assured. Delivery is not considered to have occurred until the customer takes title to the goods and assumes the risks and rewards of ownership, which is generally on the date of shipment. At the time revenue is recognized, the Company records a provision for the estimated amount of future returns based primarily on historical experience and any known trends or conditions that exist at the time revenue is recognized. Revenues are recorded net of taxes collected from customers.

Shipping and Handling

The Company classifies shipping and handling billed to customers as sales and classifies costs relating to shipping and handling as cost of revenues.

Advertising Costs

Advertising costs are charged to operations when incurred. Advertising expense totaled \$177,249 and \$12,974 for the years ended September 30, 2015 and 2014, respectively.

Legal Costs

The Company expenses legal costs associated with loss contingencies as they are incurred.

Income Taxes

Income taxes are accounted for using the asset and liability method. Under this method, deferred income tax assets and liabilities are recognized for the future tax consequences attributable to temporary differences between the financial statement carrying amounts of existing assets and liabilities and their respective tax bases. Deferred income tax assets and liabilities are measured using enacted tax rates expected to apply to taxable income in the years in which these temporary differences are expected to be recovered or settled. The effect on deferred tax assets and liabilities of a change in tax rates is recognized in income in the period that includes the enactment date. A valuation allowance would be provided for those deferred tax assets for which if it is more likely than not that the related benefit will not be realized. The Company classifies tax-related penalties and interest as a component of income tax expense for financial statement presentation. For the period from July 7, 2015 to September 30, 2015, Marquis Industries, Inc. and subsidiaries is required to file a separate income tax return, and therefore, the income generated by these subsidiaries cannot be offset against the Company's net operating losses.

Stock-Based Compensation

The Company from time to time grants restricted stock awards and options to employees, non-employees and Company executives and directors. Such awards are valued based on the grant date fair-value of the instruments, net of estimated forfeitures. The value of each award is amortized on a straight-line basis over the vesting period.

Net Loss Per Share

Net loss per share is calculated in accordance with FASB ASC 260, “*Earnings Per Share*”. Under ASC 260 basic net loss per share is computed using the weighted average number of common shares outstanding during the period except that it does not include unvested restricted stock subject to cancellation. Diluted net loss per share is computed using the weighted average number of common shares and, if dilutive, potential common shares outstanding during the period. Potential common shares consist of the incremental common shares issuable upon the exercise of warrants, restricted shares and convertible preferred stock. The dilutive effect of outstanding restricted shares and warrants is reflected in diluted earnings per share by application of the treasury stock method. Convertible preferred stock is reflected on an if-converted basis.

Long-lived Assets

The Company assesses long-lived assets, including intangible assets, for impairment in accordance with the provisions of FASB ASC 360 “Property, Plant and Equipment”. A long-lived asset (or group of assets) shall be tested for recoverability whenever events or changes in circumstances indicate that its carrying amount may not be recoverable. The carrying amount of a long lived asset is not recoverable if it exceeds the sum of the undiscounted net cash flows expected to result from the use and eventual disposition of the asset. The amount of impairment loss, if any, is measured as the difference between the net book value of the asset and its estimated fair value. For purposes of these tests, long-lived assets must be grouped with other assets and liabilities for which identifiable cash flows are largely independent of the cash flows of other assets and liabilities. The Company follows ASC Topic 350 in accounting for intangible assets, which requires impairment losses to be recorded when indicators of impairment are present and the undiscounted cash flows estimated to be generated by the assets are less than the assets’ carrying amounts. During the year ended September 30, 2015, the Company determined that based on future cash flows generated that certain of its intangible assets were impaired and took a charge to earnings of \$2,543,568. There were no impairment losses recorded on intangible assets for the year ended September 30, 2014.

Goodwill

Goodwill represents the excess of purchase price over the underlying net assets of businesses acquired. Under accounting requirements, goodwill is not amortized but is subject to annual impairment tests. The Company recorded goodwill of \$1,169,904 related to its acquisition of Modern Everyday, Inc. in fiscal 2014 and \$800,000 related to its acquisition of Marquis Industries, Inc. in fiscal 2015. As of September 30, 2015 and 2014, the Company performed the required impairment review. During the impairment review at September 30, 2015, the Company determined that based on future cash flows generated that its goodwill was impaired and took a charge to earnings of \$1,169,904.

Segment Reporting

ASC Topic 280, “Segment Reporting,” requires use of the “management approach” model for segment reporting. The management approach model is based on the way a company’s management organizes segments within the company for making operating decisions and assessing performance. The Company determined it has three reportable segments (See Note 17).

Derivative Financial Instruments

The Company evaluates all of its agreements to determine if such instruments have derivatives or contain features that qualify as embedded derivatives. For derivative financial instruments that are accounted for as liabilities, the derivative instrument is initially recorded at its fair value and is then re-valued at each reporting date, with changes in the fair value reported in the consolidated statements of operations. For stock-based derivative financial instruments, the Company uses a weighted average Black-Scholes-Merton option pricing model to value the derivative instruments at inception and on subsequent valuation dates. The classification of derivative instruments, including whether such instruments should be recorded as liabilities or as equity, is evaluated at the end of each reporting period. Derivative instrument liabilities are classified in the balance sheet as current or non-current based on whether or not net-cash settlement of the derivative instrument could be required within 12 months of the balance sheet date. As of September 30, 2014, the Company’s only derivative financial instrument was a convertible note due to the “reset” and “dilutive issuance” clause in the note relating to the conversion price from dilutive share issuance. See Note 5. There were no derivative instruments as of September 30, 2015.

Fair Value Measurements

ASC Topic 820, "Fair Value Measurements and Disclosures," requires disclosure of the fair value of financial instruments held by the Company. ASC Topic 825, "Financial Instruments," defines fair value, and establishes a three-level valuation hierarchy for disclosures of fair value measurement that enhances disclosure requirements for fair value measures. The three levels of valuation hierarchy are defined as follows:

- Level 1 inputs to the valuation methodology are quoted prices for identical assets or liabilities in active markets.
- Level 2 inputs to the valuation methodology include quoted prices for similar assets and liabilities in active markets, and inputs that are observable for the asset or liability, either directly or indirectly, for substantially the full term of the financial instrument.
- Level 3 inputs to the valuation methodology are unobservable and significant to the fair value measurement.

The Company's derivative instruments were reported at fair value using Level 2 inputs as discussed in Note 5. Also, the Company has a purchase price contingency that is discussed in Note 13.

The Company uses Level 2 inputs for its valuation methodology for the warrant derivative liabilities as their fair values were determined by using a probability weighted average Black-Scholes-Merton pricing model based on various assumptions. The Company's derivative liability is adjusted to reflect fair value at each period end, with any increase or decrease in the fair value being recorded in results of operations as adjustments to fair value of derivatives.

At September 30, 2015 and 2014, the Company identified the following liabilities that are required to be presented on the balance sheet at fair value:

Description	Fair Value As of December 31, 2015	Fair Value Measurements at December 31, 2015 Using Fair Value Hierarchy		
		Level 1	Level 2	Level 3
Derivative liability	\$ –	\$ –	–	–
Contingent consideration for business combination	316,000	316,000	–	–
Total	\$ 316,000	\$ 316,000	–	–

Description	Fair Value As of December 31, 2014	Fair Value Measurements at December 31, 2014 Using Fair Value Hierarchy		
		Level 1	Level 2	Level 3
Derivative liability	\$ 83,580	\$ –	83,580	–
Contingent consideration for business combination	251,000	251,000	–	–
Total	\$ 334,580	\$ 251,000	83,580	–

Reclassifications

Certain amounts in the prior year financial statements have been reclassified to conform to the current year presentation. These reclassifications had no effect on the previously reported net income or stockholders' equity.

Recently Issued Accounting Pronouncements

In May 2014, the FASB issued Accounting Standards Update No. 2014-09, *Revenue from Contracts with Customers (ASU 2014-09)*, which supersedes nearly all existing revenue recognition guidance under U.S. GAAP. The core principle of ASU 2014-09 is to recognize revenues when promised goods or services are transferred to customers in an amount that reflects the consideration to which an entity expects to be entitled for those goods or services. ASU 2014-09 defines a five step process to achieve this core principle and, in doing so, more judgment and estimates may be required within the revenue recognition process than are required under existing U.S. GAAP. The standard is effective for annual periods beginning after December 15, 2016, and interim periods therein, using either of the following transition methods: (i) a full retrospective approach reflecting the application of the standard in each prior reporting period with the option to elect certain practical expedients, or (ii) a retrospective approach with the cumulative effect of initially adopting ASU 2014-09 recognized at the date of adoption (which includes additional footnote disclosures). Early adoption is not permitted. The Company is currently evaluating the impact of the pending adoption of ASU 2014-09 on its consolidated financial statements and has not yet determined the method by which it will adopt the standard beginning January 1, 2017.

In August, 2015, the FASB issued ASU No. 2015-14, *Revenue from Contracts with Customers (Topic 606): Deferral of the Effective Date*. The amendment in this ASU defers the effective date of ASU No. 2014-09 for all entities for one year. Public business entities, certain not-for-profit entities, and certain employee benefit plans should apply the guidance in ASU 2014-09 to annual reporting periods beginning December 15, 2017, including interim reporting periods within that reporting period. Earlier application is permitted only as of annual reporting periods beginning after December 31, 2016, including interim reporting periods with that reporting period.

In January 2015, the FASB issued Accounting Standards Update No. 2015-01, *Income Statement – Extraordinary and Unusual items (Subtopic 225-20)*, Simplifying Income Statement Presentation by Eliminating the Concept of Extraordinary Items (ASU 2015-01). The amendment eliminates from U.S. GAAP the concept of extraordinary items. This guidance is effective for the Company in the first quarter of fiscal 2017. Early adoption is permitted and allows the Company to apply the amendment prospectively or retrospectively. The adoption of this guidance is not expected to have a material impact on the Company's consolidated financial statements.

In February, 2015, the FASB issued ASU No. 2015-02, *Consolidation (Topic 810): Amendments to the Consolidation Analysis*. ASU 2015-02 provides guidance on the consolidation evaluation for reporting organizations that are required to evaluate whether they should consolidate certain legal entities such as limited partnerships, limited liability corporations, and securitization structures (collateralized debt obligations, collateralized loan obligations, and mortgage-backed security transactions). ASU 2015-02 is effective for periods beginning December 15, 2015. The adoption of ASU 2015-02 is not expected to have a material effect on the Company's consolidated financial statements. Early adoption is permitted.

In September, 2015, the FASB issued ASU No. 2015-16, *Business Combinations (Topic 805)*. Topic 805 requires that an acquirer retrospectively adjust provisional amounts recognized in a business combination, during the measurement period. To simplify the accounting for adjustments made to provisional amounts, the amendments in the Update require that the acquirer recognize adjustments to provisional amounts that are identified during the measurement period in the reporting period in which the adjustment amount is determined. The acquirer is required to also record, in the same period's financial statements, the effect on earnings of changes in depreciation, amortization, or other income effects, if any, as a result of the change to the provisional amounts, calculated as if the accounting had been completed at the acquisition date. In addition an entity is required to present separately on the face of the income statement or disclose in the notes to the financial statements the portion of the amount recorded in current-period earnings by line item that would have been recorded in previous reporting periods if the adjustment to the provisional amounts had been recognized as of the acquisition date. ASU 2015-16 is effective for fiscal years beginning December 15, 2015. The adoption of ASU 2015-016 is not expected to have a material effect on the Company's consolidated financial statements.

Other recent accounting pronouncements issued by the FASB, including its Emerging Issues Task Force, the American Institute of Certified Public Accountants, and the Securities and Exchange Commission did not or are not believed by management to have a material impact on the Company's present or future financial statements.

Note 3: Balance Sheet Information

Balance sheet information is as follows:

	September 30, 2015	September 30, 2014
Receivables, current, net:		
Accounts receivable, current	\$ 9,007,127	\$ 1,611,269
Less: Allowance for doubtful accounts	(763,135)	(756,686)
	<u>\$ 8,243,992</u>	<u>\$ 854,583</u>
Receivables, long term, net:		
Accounts receivable, long term	\$ 344,572	\$ 344,572
Less: Allowance for doubtful accounts	(344,572)	(344,572)
	<u>\$ –</u>	<u>\$ –</u>
Total receivables, net:		
Gross receivables	\$ 9,351,699	\$ 1,955,841
Less: Allowance for doubtful accounts	(1,107,707)	(1,101,258)
	<u>\$ 8,243,992</u>	<u>\$ 854,583</u>
Components of allowance for doubtful accounts are as follows:		
Allowance for dilution and fees on amounts due from billing aggregators	\$ 1,063,617	\$ 1,063,633
Allowance for customer refunds	1,715	2,107
Allowance for other trade receivables	42,375	35,518
	<u>\$ 1,107,707</u>	<u>\$ 1,101,258</u>
Inventory		
Raw materials	\$ 6,715,298	\$ –
Work in progress	836,837	–
Finished goods	6,185,741	4,529,714
	13,737,876	4,529,714
Less: Obsolescence reserve	(402,278)	(252,569)
	<u>\$ 13,335,598</u>	<u>\$ 4,277,145</u>
Property and equipment, net:		
Land and improvements	\$ 687,999	\$ –
Building and improvements	4,202,000	–
Transportation equipment	77,419	–
Machinery and equipment	7,676,561	–
Furnishings and fixtures	211,701	162,642
Office, computer equipment and other	244,674	192,063
	13,100,354	354,705
Less: Accumulated depreciation	(618,453)	(201,591)
	<u>\$ 12,481,901</u>	<u>\$ 153,114</u>
Intangible assets, net:		
Domain name and marketing related intangibles	\$ 18,957	\$ 1,521,015
Website and technology related intangibles	25,300	2,863,509
Purchased software	1,500,000	–
Covenant not to compete	–	120,000
	1,544,257	4,504,524
Less: Accumulated amortization	(27,327)	(1,433,314)
	<u>\$ 1,516,930</u>	<u>\$ 3,071,210</u>
Accrued liabilities:		
Accrued payroll and bonuses	\$ 731,782	\$ 107,224
Deferred revenue	243,082	548,004
Accrued software costs	1,500,000	–
Accrued expenses - other	1,186,085	390,802
	<u>\$ 3,660,949</u>	<u>\$ 1,046,030</u>

Note 4: Intangible Assets

The Company's intangible assets consist of licenses for the use of Internet domain names, Universal Resource Locators, or URLs, capitalized website development costs, other information technology licenses, software, a covenant not to compete, and marketing and technology related intangibles acquired through the acquisition of LiveDeal, Inc. As a result of the acquisition of Modern Everyday Inc., the Company recorded goodwill of \$1,169,904. In addition as a result of the acquisition of Marquis Industries, Inc., the Company recorded goodwill of \$800,000. All such assets are capitalized at their original cost and amortized over their estimated useful lives as follows: domain name and marketing - 3 to 20 years; website and technology - 3 to 5 years; software - 5 years, and covenant not to compete - 4 years. Goodwill is not amortized, but evaluated for impairment on at least an annual basis.

During the year ended September 30, 2015, the Company purchased software for \$1,500,000. The Company has the option to pay for the software in cash or in 800,000 shares of the Company's common stock. The Company has until June 30, 2016 to pay for the software either in cash or common stock. At September 30, 2015, the Company had not made any payments towards the purchase of this software and has reflected the \$1,500,000 purchase price for the software in accrued liabilities in the accompanying condensed consolidated balance sheet.

During the year ended September 30, 2015, the Company determined that certain its long-lived intangible assets and goodwill were impaired and took a charge to earnings of \$2,543,568 and \$1,169,904, respectively.

The following summarizes estimated future amortization expense related to intangible assets that have net balances as of September 30, 2015:

2016	\$	230,471
2017		216,721
2018		214,286
2019		214,286
2020		214,286
Thereafter		426,880
	\$	<u>1,516,930</u>

Total amortization expense related to intangible assets was \$575,532 and \$441,978 for the years ended September 30, 2015 and 2014, respectively.

Note 5: Derivative Liability

The convertible note discussed in Note 6 had a reset provision and a dilutive issuance clause that gave rise to a derivative liability. The reset provision provided for the conversion price to be adjusted downward in the event that the Company issued any securities at a price per share lower than the then-current conversion price; provided, however, that in no event shall the conversion price per share be less than \$1.00.

The fair value of the derivative liability was recorded and shown separately under current liabilities. Changes in the fair value of the derivative liability were recorded in the consolidated statement of operations under other income (expense).

The Company evaluates all of its agreements to determine if such instruments have derivatives or contain features that qualify as embedded derivatives. For derivative financial instruments that are accounted for as liabilities, the derivative instrument is initially recorded at its fair value and is then re-valued at each reporting date, with changes in the fair value reported in the consolidated statements of operations. For stock-based derivative financial instruments, the Company uses a weighted average Black-Scholes-Merton option pricing model to value the derivative instruments at inception and on subsequent valuation dates. The classification of derivative instruments, including whether such instruments should be recorded as liabilities or as equity, is evaluated at the end of each reporting period. Derivative instrument liabilities are classified in the balance sheet as current or non-current based on whether or not net-cash settlement of the derivative instrument could be required within 12 months of the balance sheet date.

The range of significant assumptions which the Company used to measure the fair value of the derivative liability at September 30, 2014 was as follows:

	Inception	September 30, 2014
Stock price	\$ 7.14	\$ 2.98
Risk free rate	.11%	.13%
Volatility	142%	94%
Exercise prices	\$ 8.12	\$ 2.93
Term (years)	1.00	.42

The convertible note was repaid during the year ended September 30, 2015; therefore there was not a related derivative liability at September 30, 2015.

The following table represents the Company's derivative liability activity for the embedded conversion features for the years ended September 30, 2015 and 2014:

Derivative liability balance, September 30, 2013	\$	–
Issuance of derivative liability during the year ended September 30, 2014		139,852
Change in derivative liability during the year ended September 30, 2014		<u>(56,272)</u>
Derivative liability balance, September 30, 2014		83,580
Change in derivative liability during the year ended September 30, 2015		<u>(83,580)</u>
Derivative liability balance, September 30, 2015	\$	<u>–</u>

Note 6: Notes Payable

Revolver Loan and Term Loan

In connection with the purchase of Marquis Industries Inc., the Company entered into an agreement with Bank of America for a Term and Revolving Loan for approximately \$7.8 million for the term component and approximately \$15 million for the revolving component. As part of the Bank of America Revolving Loan, Marquis Industries may borrow up to \$15 million (based on eligibility).

The Bank of America term loan bears interest at a variable rate based on a base rate plus a margin. The current base rate is the greater of (a) Bank of America prime rate, (b) the current federal funds rate plus 0.50%, or (c) 30-day LIBOR plus 1.00% plus the margin, which varies, depending on the fixed coverage ratio table below. Levels I – IV which determine the interest rate to be charge is based on the fixed charge coverage ratio.

Fixed Coverage Ratio Table

Level	Fixed Charge Coverage Ratio	Base Rate Revolver Loan	LIBOR Revolver Loans	Base Rate Term Loans	LIBOR Term Loans
I	>2.00 to 1.00	0.50%	1.50%	0.75%	1.75%
II	<2.00 to 1.00 but >1.50 to 1.00	0.75%	1.75%	1.00%	2.00%
III	<1.50 to 1.00 but >1.20 to 1.00	1.00%	2.00%	1.25%	2.25%
IV	<1.2 to 1.00	1.25%	2.25%	1.50%	2.5%

The loans are cross-collateralized with substantially all real and personal property of Marquis Industries, Inc. As of September 30, 2015, the Company was at Level II with the fixed coverage ratio.

Monthly payments to Bank of America are approximately \$79,000 plus accrued interest. The term component is due and payable in July 2020, which is when the revolving component terminates.

The loans contain certain covenants that require, among other things, for the Company to maintain a fixed charge coverage ratio of at least 1.05 to 1, tested as of the last day of each month for the twelve consecutive months ending on such day. Since the loan was obtained on July 6, 2015, the Company still has until July 5, 2016 to be in compliance with this ratio.

February 2014 Convertible Note Transaction

On February 27, 2014, the Company issued a one year convertible note to an otherwise unaffiliated, non-institutional third party in the principal amount of \$323,595. The note (i) is unsecured, (ii) bears interest at the rate of six percent per annum, and (iii) was issued without any original issue discount.

The principal is convertible into shares of the Company's common stock at any time and from time-to-time at the instance of either the Company or the holder. The per-share conversion price is an amount equal to ninety percent (90%) of the 10-day volume weighted average closing bid price for the Company's common stock, as reported by The NASDAQ Stock Market, Inc. for the ten (10) trading days immediately preceding the date of the notice of conversion, subject to downward adjustment in the event that the Company issues any securities at a price per share lower than the then-current conversion price; provided, however, that in no event shall the conversion price per share be less than \$1.00. The Company provided the holder with certain negative covenants and events of default, each standard for transactions of this nature.

Due to the "reset" and "dilutive issuance" clause in this note relating to the conversion price from dilutive share issuance, the Company has determined that the conversion feature is considered a derivative liability for the Company, which is detailed in Note 5.

The Company determined an initial derivative liability value of \$139,852, which is recorded as a derivative liability as of the date of issuance while also recording an \$139,852 debt discount on its balance sheet in relation to the bifurcation of the embedded conversion options of the note. The debt discount is being amortized over the one year term. The note was repaid during the year ended September 30, 2015, therefore the remaining unamortized debt discount of \$57,665 was written off to interest expense. Also, as a result of the note being repaid, the derivative liability associated with this convertible note was reduced to \$0. The Company recorded \$83,580 of non-cash "change in fair value of derivative" income during the year ended September 30, 2015.

ICG Convertible Note Transaction

On January 23, 2014, the Company issued a note to Isaac Capital Group ("ICG"), a related party, in the principal amount of \$500,000. Because the conversion price of \$2.29 was less than the stock price, this gave rise to a beneficial conversion feature valued at \$500,000. The Company recognized this beneficial conversion feature as a debt discount and additional paid in capital. The debt discount is being amortized over the one year term. On December 3, 2014, ICG converted the note into 674,370 shares of common stock, therefore the remaining debt discount of \$158,219 was written off and recognized as interest expense. In addition, upon the conversion of note, the Company issued to ICG a warrant to acquire 674,370 additional shares of the Company's common stock at an exercise price of \$0.95 per share. The fair value of the warrants issued in connection with the conversion of note was \$1,853,473 and was immediately recognized as interest expense.

Kingston Convertible Note Transaction (\$10 Million Line of Credit)

On January 7, 2014, the Company entered into a Note Purchase Agreement (the "Kingston Purchase Agreement") with Kingston Diversified Holdings LLC ("Kingston"), pursuant to which the Investor agreed to purchase for cash up to \$5,000,000 in aggregate principal amount of the Company's Convertible Notes ("Notes"). The Kingston Purchase Agreement and the Notes, which are unsecured, provide that all amounts payable by the Company to Kingston under the Notes will be due and payable on the second (2nd) anniversary of the date of the Kingston Purchase Agreement (the "Maturity Date"). The Kingston Purchase Agreement provides for a 5% discount to the note amount, interest at 8% per annum and convertible into shares of the Company's common stock equal to 70% of the lesser of: (i) the closing bid price of the common stock on the date of the Kingston Purchase Agreement (i.e., \$3.12 per share); or (ii) the 10-day volume weighted average closing bid price for the common stock, as listed on NASDAQ for the 10 business days immediately preceding the date of conversion (the "Average Price"); provided, however, that in no event will the Average Price per share be less than \$0.33.

On October 29, 2014, the Company entered into an amended convertible note purchase agreement with Kingston whereby the Company and Kingston agreed to (i) increase the maximum principal amount of the notes from \$5 million to \$10 million in principal amount, (ii) eliminate the original issue discount provision of the agreement and replaces it with an execution payment equal to 5% of the maximum loan amount, and (iii) provides certain additional adjustments to the note conversion price.

On October 16, 2014, the Company issued a Note to Kingston in the principal amount of \$100,000. Because the conversion price of \$0.79 was less than the stock price on the date of issuance, this gave rise to a beneficial conversion feature valued at \$100,000. The Company recognized this beneficial conversion feature as a debt discount and additional paid in capital. The debt discount is being amortized over the one year term. On November 17, 2014, Kingston converted the note into 127,008 shares of common stock, therefore the debt discount of \$100,000 was written off and recognized as interest expense.

In addition, as a result of the October 29, 2014 amendment, the Company was required to issue to Kingston, the original issue discount payment equal to 5% of the maximum loan in shares of the Company's common stock based upon the conversion price of the first conversion which was \$0.79 per shares. The Company issued 630,252 shares of common stock that had a fair value of \$2,004,202 which was immediately recognized as interest expense.

Credit line

In connection with the purchase of Modern Everyday, Inc., the Company assumed a credit line from a bank. The credit line is collateralized by all the assets of Modern Everyday, Inc., accrues interest at prime plus 2% and is due on January 1, 2024.

Notes payable as of September 30, 2015 and 2014 consisted of the following:

	September 30, 2015	September 30, 2014
Base Rate Revolver Loan- interest rate based on prime rate adjusted for fixed coverage ratio (table above), maturity date July 6, 2020.	\$ 7,225,745	\$ –
Base Rate Term Loan- interest rate based on prime rate adjusted for fixed coverage ratio (table above), maturity date July 6, 2020.	7,628,438	–
Note payable to individual, payable on demand, interest at 10.0% per annum, unsecured	92,441	90,168
Convertible note payable to individual, due February 27, 2015, interest at 6.0% per annum, unsecured	–	335,245
Convertible note payable to ICG, due January 23, 2015, interest at 8.0% per annum, unsecured	–	527,889
Acquisition note payable, \$200,000 due February 28, 2015 and \$400,000 due February 28, 2016, non-interest bearing with interest imputed at 2.87% per annum	395,251	581,707
Credit line due January 1, 2024, with interest rate of 2.75%	669,351	240,204
Less Debt Discount	–	(215,884)
Total Debt	16,011,226	1,559,329
Current portion	1,443,036	920,360
Long-term portion	\$ 14,568,190	\$ 638,969

Future maturities of debt at September 30, 2015 are as follows:

Years ending September 30.

2016	\$ 1,443,036
2017	955,344
2018	955,344
2019	955,344
2020	11,032,807
Thereafter	669,351
	<u>\$ 16,011,226</u>

Note 7: Note Payable, Related Party

In connection with the purchase of Marquis Industries Inc., the Company entered into a mezzanine loan in an amount of up to \$7,000,000 provided by Isaac Capital Fund, a private lender whose managing member is Jon Isaac, the chief executive officer of the Company.

The Isaac Capital Fund mezzanine loan bears interest at 12.5% with payment obligations of interest each month and all principal due in January 2021 (six months after the final payments are due under the Bank of America Term and Revolving Loan). As of September 30, 2015, there was \$6,495,825 outstanding on this mezzanine loan.

Note 8: Equity

During the year ended September 30, 2015, the Company issued:

- 191,136 shares of common stock for services rendered valued at \$498,059. The value was based on the market value of the Company's common stock on the date of issuance;
- 600,000 shares of common stock issued to officers of the Company as bonuses for services rendered in fiscal years 2012, 2013 and 2014 valued at \$1,518,000. The value was based on the market value of the Company's common stock on the date of issuance;
- 155,000 shares of common stock for net cash proceeds of \$538,441;
- 801,378 share of common stock for the conversion of convertible notes and accrued interest of \$635,756; and
- 630,252 shares of common stock as payment for the original issue discount fees associated with the Kingston agreement. The value of the shares was \$2,004,202 based on the market value of the Company's common stock at the date of issuance.

During the year ended September 30, 2014, the Company issued:

- 24,427 shares of common stock for services rendered valued at \$9,654. The value was based on the market value of the Company's common stock on the date of issuance;
- 3,115,147 shares of common stock for net cash proceeds of \$13,681,054; and
- 50,000 share of common stock valued at \$201,500 in connection with the acquisition of Modern Everyday, Inc.

At-The-Market Offerings of Common Stock (Chardan Capital Markets LLC)

On January 7, 2014, the Company entered into an Engagement Agreement (the "January 2014 Engagement Agreement") with Chardan Capital Markets LLC ("Chardan") pursuant to which the Company agreed to issue and sell up to a maximum aggregate amount of 1,980,000 shares of its common stock from time to time through Chardan as its sales agent, under its shelf Registration Statement on Form S-3. On May 16, 2014, the Company entered into another Engagement Agreement (the "May 2014 Engagement Agreement") with Chardan pursuant to which the Company may issue and sell up to a maximum aggregate amount of 10,000,000 shares of its common stock from time to time through Chardan as its sales agent, under its shelf Registration Statement on Form S-3.

The Company will pay Chardan a commission equal to up to 3% of the gross proceeds from the sale of the common stock. Such commissions were \$8,211 and \$412,528 for the years ended September 30, 2015 and 2014, respectively. During the years ended September 30, 2015 and 2014, the Company sold 155,000 and 3,115,147 shares, respectively, of its common stock for net proceeds of \$538,441 and \$13,681,054, respectively.

2014 Omnibus Equity Incentive Plan

On January 7, 2014, our Board of Directors adopted the 2014 Omnibus Equity Incentive Plan (the “2014 Plan”), which authorizes the issuance of distribution equivalent rights, incentive stock options, non-qualified stock options, performance stock, performance units, restricted ordinary shares, restricted stock units, stock appreciation rights, tandem stock appreciation rights and unrestricted ordinary shares to our officers, employees, directors, consultants and advisors. The Company has reserved up to 1,800,000 shares of common stock for issuance under the 2014 Plan. As required under Nasdaq Listing Rule 5635(c), the Company included a proposal at its 2014 Annual Meeting of Stockholders, which was held on July 11, 2014, to obtain approval of the 2014 Plan. The 2014 Plan was approved.

3-for-1 Forward Stock Split

On January 16, 2014, our Board of Directors approved a 3-for-1 forward stock split with respect to the Company’s common stock. Stockholders received three shares of common stock for every one share of common stock owned on the record date of February 3, 2014. The forward stock split was effective as of the close of trading on February 11, 2014. The additional shares were distributed as of the close of business on February 11, 2014. In connection with the forward stock split, the Company’s authorized shares of common stock also increased from 10,000,000 shares to 30,000,000 shares. All data for common stock, options and warrants have been adjusted to reflect the 3-for-1 forward stock split for all periods presented. In addition, all common stock prices, and per share data for all periods presented have been adjusted to reflect the 3-for-1 forward stock split.

Series E Convertible Preferred Stock

Pursuant to an existing tender offer, holders of 13,184 shares of the Company’s common stock exchanged said shares for 127,840 shares of Series E Convertible Preferred Stock, at the then \$0.85 market value of the common stock. The shares carry a \$0.30 per share liquidation preference and accrue dividends at the rate of 5% per annum on the liquidation preference per share, payable quarterly from legally available funds. If such funds are not available, dividends shall continue to accumulate until they can be paid from legally available funds. Holders of the preferred shares are entitled, after two years from issuance, to convert them into common shares on a hundred-to-one basis together with payment of \$0.45 per converted share.

Dividends

During the years ended September 30, 2015 and 2014, the Company accrued dividends of \$1,921 and \$1,925, respectively, payable to holders of Series E preferred stock. At September 30, 2015 unpaid dividends were \$959.

Note 9: Warrants

As discussed in Note 7, the Company issued several Notes in prior periods and converted them resulting in the issuance of warrants. The following table summarizes information about the Company’s warrants at September 30, 2015:

	<u>Number of Units</u>	<u>Weighted Average Exercise Price</u>	<u>Weighted Average Remaining Contractual Term (in years)</u>	<u>Intrinsic Value</u>
Outstanding at September 30, 2013	2,866,506	\$ 0.63	4.39	\$ 1,471,998
Granted	—			
Exercised	—			
Outstanding at September 30, 2014	2,866,506	0.63	3.39	6,732,700
Granted	674,370	0.95		
Exercised	—			
Outstanding at September 30, 2015	<u>3,540,876</u>	<u>\$ 0.69</u>	<u>2.73</u>	<u>\$ 3,498,531</u>
Exercisable at September 30, 2015	<u>3,540,876</u>	<u>\$ 0.69</u>	<u>2.73</u>	<u>\$ 3,498,531</u>

Most of the above warrants were issued in connection with conversion of convertible notes from ICG (See Note 6). When the debt is converted and warrants are issued, the Company determines the fair value of the warrants using the Black-Scholes model and takes a charge to interest expense at the date of issuance.

The exercise price for warrants outstanding and exercisable at September 30, 2015 is as follows:

Outstanding		Exercisable	
Number of Warrants	Exercise Price	Number of Warrants	Exercise Price
1,631,886	\$ 0.55	1,631,886	\$ 0.55
535,716	0.56	535,716	0.56
371,487	0.81	371,487	0.81
1,001,787	0.95	1,001,787	0.95
<u>3,540,876</u>		<u>3,540,876</u>	

Note 10: Stock-based Compensation

From time to time, the Company grants stock options and restricted stock awards to officers, directors and employees. These awards are valued based on the grant date fair value of the instruments, net of estimated forfeitures. The value of each award is amortized on a straight-line basis over the requisite service period.

Stock Options

The following table summarizes stock option activity for the years ended September 30, 2015 and 2014:

	Number of Shares	Weighted Average Exercise Price	Weighted Average Remaining Contractual Life	Intrinsic Value
Outstanding at September 30, 2013	675,000	\$ 2.82		
Granted	–			
Exercised	–			
Forfeited	(75,000)			
Outstanding at September 30, 2014	600,000	\$ 2.76	4.90	\$ 318,250
Granted	450,000	\$ 2.53		
Exercised	–			
Forfeited	–			
Outstanding at September 30, 2015	<u>1,050,000</u>	<u>\$ 1.87</u>	<u>4.76</u>	<u>\$ 225,750</u>
Exercisable at September 30, 2015	<u>675,000</u>	<u>\$ 1.73</u>	<u>4.26</u>	<u>\$ 223,750</u>

The Company recognized compensation expense of \$712,538 and \$167,985 during the years ended September 30, 2015 and 2014, respectively, related to stock option awards granted to certain employees and executives based on the grant date fair value of the awards, net of estimated forfeitures.

At September 30, 2015, the Company had \$259,798 of unrecognized compensation expense (net of estimated forfeitures) associated with stock option awards which the Company expects will be recognized through June 2017.

During the year ended September 30, 2015, the Company reduced the exercise price by 50% for the 600,000 options then outstanding. The Company recognized compensation expense of \$54,677 related to the re-pricing of the exercise for these options.

The exercise price for options outstanding and exercisable at September 30, 2015 is as follows:

Outstanding			Exercisable		
Number of Options	Exercise Price		Number of Options	Exercise Price	
187,500	\$	0.83	187,500	\$	0.83
150,000		1.25	150,000		1.25
187,500		1.67	37,500		1.67
37,500		2.08	0		2.08
37,500		2.50	0		2.50
450,000		2.53	300,000		2.53
<u>1,050,000</u>			<u>675,000</u>		

The following table summarizes information about the Company's non-vested shares as of September 30, 2015:

Non-vested Shares	Number of Shares	Grant-Date Fair Value
Nonvested at September 30, 2013	600,000	\$ 0.73
Granted	—	
Vested	(150,000)	
Nonvested at September 30, 2014	450,000	\$ 0.73
Granted	450,000	\$ 1.92
Vested	(525,000)	
Nonvested at September 30, 2015	<u>375,000</u>	\$ 1.44

For options granted during 2015 where the exercise price equaled the stock price at the date of the grant, the weighted-average fair value of such options was \$1.92 and the weighted-average exercise price of such options was \$2.53. No options were granted during 2015, where the exercise price was less than the stock price at the date of grant or where the exercise price was greater than the stock price at the date of grant.

The assumptions used in calculating the fair value of options granted using the Black-Scholes option-pricing model for options granted in 2015 are as follows:

Risk-free interest rate	1.01%
Expected life of the options	2.5 to 3.5 years
Expected volatility	140%
Expected dividend yield	0%

Note 11: Net Loss Per Share

Net loss per share is calculated using the weighted average number of shares of common stock outstanding during the applicable period. Basic weighted average common shares outstanding do not include shares of restricted stock that have not yet vested, although such shares are included as outstanding shares in the Company's Consolidated Balance Sheet. Diluted net loss per share is computed using the weighted average number of common shares outstanding and if dilutive, potential common shares outstanding during the period. Potential common shares consist of the additional common shares issuable in respect of restricted share awards, stock options and convertible preferred stock. Preferred stock dividends are subtracted from net loss to determine the amount available to common stockholders.

The following table presents the computation of basic and diluted net loss per share:

	Years Ended September 30,	
	2015	2014
Net loss attributable to Live Ventures, Inc.	\$ (14,666,129)	\$ (4,661,381)
Less: preferred stock dividends	(1,921)	(1,438)
Net loss applicable to common stock	<u>\$ (14,668,050)</u>	<u>\$ (4,662,819)</u>
Weighted average common shares outstanding - basic and diluted	15,765,818	13,144,248
Loss per share - basic and diluted:	<u>\$ (0.93)</u>	<u>\$ (0.35)</u>

The following potentially dilutive securities were excluded from the calculation of diluted net loss per share because the effects were anti-dilutive based on the application of the treasury stock method and because the Company incurred net losses during the period:

	Years Ended September 30,	
	2015	2014
Options to purchase shares of common stock	1,050,000	600,000
Warrants to purchase shares of common stock	3,540,876	2,866,506
Series E convertible preferred stock	127,840	127,840
Shares of non-vested restricted stock	-	739,601
Total potentially dilutive shares	<u>4,718,716</u>	<u>4,333,947</u>

Note 12: Related Party Transactions

The Company entered into a Note Purchase Agreement with ICG, an entity owned by Jon Isaac, the Company's President and Chief Executive Officer and a director of the Company, and subsequently issued a series of Subordinated Convertible Notes thereunder to ICG. In connection with these transactions, the Company received gross proceeds of \$500,000 during the year ended September 30, 2014.

Because the conversion price under ICG's notes was less than the fair market value of the stock on the date of issuance, the Company recognized a beneficial conversion feature which was treated as a debt discount and amortized on a straight line basis as interest expense until the date of conversion, at which time all remaining debt discount was recognized as interest expense. Additionally, the fair value of the warrants that were contingently issuable to ICG upon conversion were recognized as additional interest expense.

During the years ended September 30, 2015 and 2014, the Company recognized total interest expense of \$2,018,803 and \$369,670, respectively, associated with the ICG notes.

Also see Note 6, 7 and 13.

Note 13: Commitments and Contingencies

Purchase price contingency

In connection with acquisition of Modern Everyday, Inc., the Company issued 50,000 shares of the Company's common stock as part of the consideration for the acquisition. The Company has guaranteed the holder of the 50,000 shares that the value of those shares will be at least \$8.00 per shares 30 months after the acquisition date. The Company has agreed to compensate the holder, if the share price is less than \$8.00 at the 30 months anniversary of the acquisition, the difference between \$8.00 and the share price at the 30 month anniversary times the number of shares still owned by the holder. As of September 30, 2015, the Company as recorded a liability of \$316,000 related to this guarantee. The value of these shares was included as part of the purchase price consideration. The Company will adjust this guarantee at the end of each balance sheet date based on the current price of the Company's common stock.

Litigation

The Company is party to certain legal proceedings from time to time incidental to the conduct of its business. These proceedings could result in fines, penalties, compensatory or treble damages or non-monetary relief. The nature of legal proceedings is such that the Company cannot assure the outcome of any particular matter, and an unfavorable ruling or development could have a materially adverse effect on our consolidated financial position, results of operations and cash flows in the period in which a ruling or settlement occurs. However, based on information available to the Company's management to date and other than as noted below, the Company's management does not expect that the outcome of any matter pending against us is likely to have a materially adverse effect on the Company's consolidated financial position as of September 30, 2015, results of operations, cash flows or liquidity of the Company.

Operating Leases and Service Contracts

The Company leases its office space, certain equipment and a building (from a related party) under long-term operating leases expiring through fiscal year 2016. Rent expense under these leases was \$581,750 and \$446,780 for the years ended September 30, 2015 and 2014, respectively. The Company has also entered into several non-cancelable service contracts. The building lease from a related party is \$18,562 per month and expires in July 2020.

As of September 30, 2015, future minimum annual payments under operating lease agreements for fiscal years ending September 30 are as follows:

2016	\$	420,704
2017		276,690
2018		222,744
2019		222,744
2020		185,620
	\$	<u>1,328,502</u>

Note 14: Provision for Income Taxes

Deferred income taxes reflect the net tax effects of temporary differences between the carrying amounts of assets and liabilities for financial reporting purposes and the amounts used for income tax purposes. A full valuation allowance is established against all net deferred tax assets as of September 30, 2015 and 2014 based on estimates of recoverability. While the Company has optimistic plans for its business strategy, it determined that such a valuation allowance was necessary given the current and expected near term losses and the uncertainty with respect to its ability to generate sufficient profits from its new business model.

For the period from July 7, 2015 to September 30, 2015, Marquis Industries, Inc. and subsidiaries is required to file a separate income return, and therefore, the income generated by these subsidiaries cannot be offset against the Company's net operating losses. Income tax expense for the years ended September 30, 2015 and 2014 is as follows:

	2015	2014
Current expense:		
Federal	\$ 320,000	\$ —
State	56,000	—
	<u>376,000</u>	<u>—</u>
Deferred expense:		
Federal	—	—
State	—	—
	<u>—</u>	<u>—</u>
Total income tax expense	<u>\$ 376,000</u>	<u>\$ —</u>

A reconciliation of the differences between the effective and statutory income tax rates for years ended September 30:

	2015		2014	
	Amount	Percent	Amount	Percent
Federal statutory rates	\$ (4,874,337)	34%	\$ (1,584,870)	34%
State income taxes	(123,292)	1%	(40,088)	1%
Permanent differences	2,794,987	-19%	200,518	-4%
Income not offset by net operating losses	327,477	-2%	—	0%
Valuation allowance against net deferred tax assets	2,251,165	-16%	1,424,439	-31%
Effective rate	<u>\$ 376,000</u>	<u>-3%</u>	<u>\$ —</u>	<u>0%</u>

At September 30, deferred income tax assets and liabilities were comprised of:

	2015	2014
Deferred income tax asset, current:		
Book to tax differences in accounts receivable	\$ 374,621	\$ 259,448
Book to tax differences in prepaid assets and accrued expenses	210,428	(21,450)
Total deferred income tax asset, current	585,049	237,998
Less: valuation allowance	(585,049)	(237,998)
Deferred income tax asset, current, net	<u>—</u>	<u>—</u>
Deferred income tax asset, long-term:		
Net operation loss carryforwards	10,801,243	8,668,250
Book to tax differences in intangible assets	632,557	928,222
Book to tax differences in organizational costs	272,239	—
Book to tax differences in depreciation	(6,810)	5,710
Total deferred income tax asset, long-term	11,669,229	9,602,182
Less: valuation allowance	(11,669,229)	(9,602,182)
Deferred income tax asset, net	<u>—</u>	<u>—</u>
Total deferred income tax asset	<u>\$ —</u>	<u>\$ —</u>

The Company has recorded as of September 30, 2015 and 2014 a valuation allowance of \$12,284,278 and \$9,840,180, respectively, as it believes that it is more likely than not that the deferred tax assets will not be realized in future years. Management has based its assessment on available historical and projected operating results.

The Company annually conducts an analysis of its tax positions and has concluded that it has no uncertain tax positions as of September 30, 2015.

The Company has net operating loss carry-forwards of approximately \$40.0 million. Such amounts are subject to IRS code section 382 limitations and expire in 2027. The 2010 to 2013 tax years are still subject to audit.

Note 15: Concentration of Credit Risk

The Company maintains cash balances at banks in California and Nevada. Accounts are insured by the Federal Deposit Insurance Corporation up to \$250,000 per institution as of September 30, 2015. At September 30, 2015 and 2014, the amount the Company had on deposit that exceeded the FDIC-insured limits was \$2,471,259 and \$7,508,924, respectively.

Financial instruments that potentially subject the Company to concentrations of credit risk are primarily trade accounts receivable. The trade accounts receivable are due primarily from business customers over widespread geographical locations within the Local Exchange Carrier (“LEC”) billing areas across the United States. The Company historically has experienced significant dilution and customer credits due to billing difficulties and uncollectible trade accounts receivable. The Company estimates and provides an allowance for uncollectible accounts receivable. The handling and processing of cash receipts pertaining to trade accounts receivable is maintained primarily by three third-party billing companies. The Company is dependent upon these billing companies for collection of its accounts receivable. The billing companies and LEC’s charge fees for their services, which are netted against the gross accounts receivable balance. The billing companies also apply holdbacks to the remittances for potentially uncollectible accounts. These amounts will vary due to numerous factors and the Company may not be certain as to the actual amounts on any specific billing submittal until several months after that submittal. The Company estimates the amount of these charges and holdbacks based on historical experience and subsequent information received from the billing companies. The Company also estimates uncollectible account balances and provides an allowance for such estimates. The billing companies retain certain holdbacks that may not be collected by the Company for a period extending beyond one year. Additionally, certain other billings’ channels consisting of billings submitted to LEC Processors through third parties were discontinued. As such, a significant portion of the receivables at September 30, 2015 and September 30, 2014 pertaining to LEC service providers represent the holdbacks described above.

Note 16: Business Combinations

On July 6 and July 7, 2015, the Company, through its newly formed, wholly-owned subsidiary, Live Ventures, Inc., entered into a series of agreements in connection with its indirect purchase of Marquis Industries, Inc., a Georgia corporation, and its subsidiaries. The purchase was effectuated between Marquis Affiliated Holdings LLC, a Delaware limited liability company that is 80% owned by Live Ventures, and the shareholders of Marquis Industries. The remaining 20% of Marquis Holdings is owned by the former owners of Marquis Industries. In connection with the purchase and finance transaction, various persons and entities entered into a series of agreements (each of which is dated on or about July 6, 2015, with funding occurring on July 6 and July 7, 2015).

The purchase price was paid through a combination of debt financing that was provided by (i) the Bank of America Term and Revolving Loan in the aggregate amount of (x) approximately \$7.8 million for the term component and (y) approximately \$15 million for the revolving component and (ii) a mezzanine loan in an amount of up to \$7,000,000 provided by Isaac Capital Fund, a private lender whose managing member is Jon Isaac, the chief executive officer of the Company. In connection with operations of Marquis Industries after the closing of the purchase transaction, and as part of the Bank of America Term and Revolving Loan, Marquis Industries may borrow up to \$15 million (based on eligibility).

The Bank of America term loan bears interest at a variable rate based on a base rate plus a margin. The current base rate is the greatest of (a) Bank of America prime rate, (b) the current federal funds rate plus 0.50%, or (c) 30-day LIBOR plus 1.00% plus the margin, which varies, depending on circumstances and as of closing was for the term component: 1.00% in excess of the base rate or 2.00% in excess of LIBOR, and for the revolving component: 0.75% in excess of the base rate or 1.75% in excess of LIBOR. Monthly payments to Bank of America are approximately \$79,000 plus accrued interest. The term component is due and payable in July 2020, which is when the revolving component terminates.

The Isaac Capital Fund mezzanine loan bears interest at 12.5% with payment obligations of interest each month and all principal due in January 2021 (six months after the final payments are due under the Bank of America Term and Revolving Loan).

The Company acquired Marquis Industries as part of its acquisition strategy to acquire profitable and well-managed companies and finance those acquisitions using traditional, non-dilutive debt financing rather than using the Company's equity.

A summary of the purchase price allocations at fair value is below. The purchase price allocation is a preliminary and subject to change. The Company has not yet completed its analysis to determine the fair value of inventory, property and equipment and a mezzanine loan on the acquisition date. Once this analysis is complete, the Company will adjust, if necessary, the provisional amounts assigned to inventory, property and equipment and a mezzanine loan in the accounting period in which the analysis is completed.

	Total
Cash	\$ 496,944
Accounts receivable	7,262,188
Inventory	11,227,359
Other current assets	813,830
Property and equipment	12,697,604
Goodwill	800,000
Accounts payable	(4,139,830)
Accrued expenses	(479,473)
Noncontrolling interest	(2,000,000)
Purchase price (1)	<u>\$ 26,678,622</u>

(1) - includes \$4,800,000 of cash, \$6,495,825 from a mezzanine loan from Isaac Capital Fund, and \$15,382,797 from bank financing.

The noncontrolling interest was valued at the price paid by the Company when it subsequently purchased the remaining 20% of Marquis Industries. See Note 18.

The revenue from the acquisition of Marquis Industries included in the results of operations from the date of acquisition on July 7, 2015 to September 30, 2015 was \$16,006,683.

The unaudited pro forma information below present statement of operations data as if the acquisition of Marquis Industries took place on October 1, 2013.

	Years Ended September 30,	
	2015 (unaudited)	2014 (unaudited)
Net revenue	\$ 81,322,724	\$ 63,686,515
Gross profit	23,805,842	16,789,944
Operating income (loss)	(4,505,060)	1,140,348
Net loss	(10,997,970)	(1,533,148)
Loss per share	(0.70)	(0.12)

Note 17: Segment Reporting

The Company operates in three segments which are characterized as: (1) legacy merchant's services, (2) online marketplace platform and (3) manufacturing. The legacy merchants' services consists of LEC business and Velocity Local, the online marketplace platform consists of livedeal.com and the fiscal 2014 acquisitions of consumer products entities and the manufacturing segment consists of the recent acquisition of Marquis Industries.

The following tables summarize segment information for the years ended September 30, 2015 and 2014:

	Years Ended September 30,	
	2015	2014
Revenues		
Marketplace platform	\$ 15,868,448	\$ 5,270,508
Manufacturing	16,006,683	—
Services	1,494,735	1,994,768
	<u>\$ 33,369,866</u>	<u>\$ 7,265,276</u>
Gross profit		
Marketplace platform	\$ 5,724,186	\$ 435,830
Manufacturing	4,187,026	—
Services	1,343,182	1,602,809
	<u>\$ 11,254,394</u>	<u>\$ 2,038,639</u>
Operating income (loss)		
Marketplace platform	\$ (11,507,737)	\$ (5,535,360)
Manufacturing	563,503	—
Services	807,967	1,036,076
	<u>\$ (10,136,267)</u>	<u>\$ (4,499,284)</u>
Depreciation and amortization		
Marketplace platform	\$ 633,732	\$ 473,292
Manufacturing	402,250	—
Services	11,770	16,964
	<u>\$ 1,047,752</u>	<u>\$ 490,256</u>
Interest Expenses		
Marketplace platform	\$ 4,214,097	\$ 458,934
Manufacturing	271,564	—
Services	—	—
	<u>\$ 4,485,661</u>	<u>\$ 458,934</u>
Provision for income taxes		
Marketplace platform	\$ —	\$ —
Manufacturing	376,000	—
Services	—	—
	<u>\$ 376,000</u>	<u>\$ —</u>
Net income (loss) applicable to Live Ventures, Inc.		
Marketplace platform	\$ (15,435,765)	\$ (5,822,732)
Manufacturing	(184,841)	—
Services	954,477	1,161,351
	<u>\$ (14,666,129)</u>	<u>\$ (4,661,381)</u>

	As of September 30, 2015	As of September 30, 2014
Total Assets		
Marketplace platform	\$ 6,811,977	\$ 18,118,425
Manufacturing	33,714,344	–
Services	138,035	171,021
	<u>\$ 40,664,356</u>	<u>\$ 18,289,446</u>
Intangible assets (including goodwill)		
Marketplace platform	\$ 1,516,930	\$ 4,234,692
Manufacturing	800,000	–
Services	–	6,422
	<u>\$ 2,316,930</u>	<u>\$ 4,241,114</u>

Note 18: Subsequent Events

On November 30, 2015, the Company purchased the remaining 20% ownership of Marquis Affiliated Holdings, LLC. With the completion of this transaction, Marquis Affiliated Holdings, LLC became a wholly-owned subsidiary of the Company. The purchase price for the remaining 20% was \$2 million of which \$1.5 million was paid in December 2015 and the remaining \$0.5 million in promissory note with fixed rate of 2% per annum will be paid on or before February 1, 2016.

On December 3, 2015, the Bank of America consented to Marquis Affiliated Holdings LLC to repay a principal amount of \$846,247 on the Issac Capital Fund I, LLC loan.

On December 11, 2015, the Company entered into a reinstatement and first amendment with Chardan Capital Markets LLC (“Chardan”). The reinstatement agreement (i) re-engages Chardan as the Company’s sales agent, and (ii) amends the expenses to be paid by the Company to Chardan whereby the Company will reimburse Chardan for up to \$30,000 in legal expenses.

ITEM 9. Changes in and Disagreements with Accountants on Accounting and Financial Disclosures

None.

ITEM 9A. Controls and Procedures

Evaluation of Disclosure Controls and Procedures. We carried out an evaluation, under the supervision and with the participation of our management, including our principal executive officer and principal financial officer, of the effectiveness of our disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)). Based upon that evaluation, our principal executive officer and principal financial officer concluded that, as of the end of the period covered in this report, our disclosure controls and procedures were not effective to ensure that information required to be disclosed in reports filed under the Securities Exchange Act of 1934 is recorded, processed, summarized and reported within the required time periods and is accumulated and communicated to our management, including our principal executive officer and principal financial officer, as appropriate to allow timely decisions regarding required disclosure. We concluded they were not effective because of certain deficiencies in our internal controls over financial reporting as disclosed below.

Changes in Internal Control Over Financial Reporting. There was no change in our internal control over financial reporting during our most recently completed fiscal quarter that has materially affected, or is reasonably likely to materially affect, our internal control over financial reporting.

Management's Report on Internal Control Over Financial Reporting. Our management is responsible for establishing and maintaining adequate internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)). Because of its inherent limitations, internal control over financial reporting may not prevent or detect misstatements. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

Our management assessed the effectiveness of our internal control over financial reporting as of September 30, 2015. In making this assessment, we used the criteria set forth by the Committee of Sponsoring Organizations of the Treadway Commission ("COSO") in Internal Control — Integrated Framework. Based on our assessment using those criteria, our management concluded that our internal control over financial reporting was not effective as of September 30, 2015 due to our analysis of the valuation of certain inventory and the purchase price allocation in connection with the acquisition of Marquis.

This annual report does not include an attestation report of the Company's registered public accounting firm regarding internal control over financial reporting. Management's report was not subject to attestation by the Company's registered public accounting firm pursuant to a permanent exemption of the Securities and Exchange Commission that permit the Company to provide only management's report in this annual report. Accordingly, our management's assessment of the effectiveness of our internal control over financial reporting as of September 30, 2015 has not been audited by our auditors, Anton & Chia, LLP, or any other independent registered accounting firm.

ITEM 9B. Other Information

None.

PART III

ITEM 10. Directors, Executive Officers and Corporate Governance

The directors and executive officers of the Company and their ages as of December 31, 2015, are as follows:

	<u>Age</u>	<u>Position</u>
Jon Isaac	33	Chief Executive Officer, President, Chief Financial Officer and Director
Tony Isaac	61	Financial Planning and Strategist/Economist and Director
Richard D. Butler, Jr.	66	Director
Dennis (De) Gao	35	Director
Tyler Sickmeyer	29	Director

Set forth below are the respective principal occupations or brief employment histories of each of our directors and the periods during which each has served as a director of the Company, as well as for our named executive officers and certain significant employees.

Jon Isaac. Mr. Isaac has served as a director of our Company since December 2011 and became our President and Chief Executive Officer in January 2012. He is the founder of Isaac Organization, a privately held investment company. At Isaac Organization, Mr. Isaac has closed a variety of multi-faceted real estate deals and has experience in aiding public companies to implement turnarounds and in raising capital. Mr. Isaac studied Economics and Finance at the University of Ottawa, Canada.

Specific Qualifications:

- Relevant educational background and business experience.
- Experience in aiding public companies to implement turnarounds and in raising capital.

Tony Isaac. Mr. Isaac has served as a director of our Company since December 2011 and began serving as the Company's Financial Planning and Strategist/Economist in July 2012. Mr. Isaac's specialty is negotiation and problem-solving of complex real estate and business transactions. Mr. Isaac graduated from Ottawa University in 1981, where he majored in Commerce and Business Administration and Economics.

Specific Qualifications:

- Relevant educational background and business experience.
- Experience in negotiation and problem-solving of complex real estate and business transactions

Richard D. Butler, Jr. Mr. Butler is Chairman of the Corporate Governance and Nominating Committee and has served as a director and member of the Audit Committee of our Company since August 2006 (including YP.com from 2006-2007). He is a veteran savings and loan and mortgage banking executive, co-founder and major shareholder of Aspen Healthcare, Inc. and Ref-Razzer Corporation, former Chief Executive Officer of Mt. Whitney Savings Bank, Chief Executive Officer of First Federal Mortgage Bank, Chief Executive Officer of Trafalgar Mortgage, and Executive Officer & Member of the President's Advisory Committee at State Savings & Loan Association (peak assets \$14 billion) and American Savings & Loan Association (NYSE: FCA; peak assets \$34 billion). Mr. Butler attended Bowling Green University in Ohio, San Joaquin Delta College in California and Southern Oregon State College.

Specific Qualifications:

- Relevant educational background and business experience.
- Extensive experience as Chief Executive Officer for several companies in the banking and finance industries.
- Experience as a public company director.
- Experience in workouts and restructurings, mergers, acquisitions, business development, and sales and marketing.
- Background and experience in finance required for service on Audit Committee.

Dennis (De) Gao. Mr. Gao has served as a director of our Company and as a member of the Audit Committee since January 2012. In July 2010, Mr. Gao co-founded and became the CFO at Oxstones Capital Management, a privately held company and a social and philanthropic enterprise, serving as an idea exchange for the global community. Prior to establishing Oxstones Capital Management, from June 2008 until July 2010, Mr. Gao was a product owner at Procter and Gamble for its consolidation system and was responsible for the Procter and Gamble’s financial report consolidation process. From May 2007 to May 2008, Mr. Gao was a financial analyst at the Internal Revenue Service’s CFO division. Mr. Gao has a dual major Bachelor of Science degree in Computer Science and Economics from University of Maryland, and an M.B.A. specializing in finance and accounting from Georgetown University’s McDonough School of Business.

Specific Qualifications:

- Relevant educational background and business experience.
- Background and experience in finance required for service on Audit Committee.
- Experience having ultimate responsibility for the preparation and presentation of financial statements (“financial literacy” required by applicable NASDAQ rules for service as Audit Committee chairman).
- “Audit Committee Financial Expert” for purposes of SEC rules and regulations (required for service as Audit Committee chairman).

Tyler Sickmeyer. In August 2008, Mr. Sickmeyer founded and since that time has served as the CEO of Fidelitas Development, a full-service marketing firm that focuses on producing an improved return on investment rate for its clients. Mr. Sickmeyer has provided consulting services to a variety of companies, large and small alike, and specializes in creating efficiencies for developing brands. Mr. Sickmeyer studied business at Robert Morris University and Lincoln Christian University.

Specific Qualifications:

- Over a decade of experience in marketing, including promotion and brand development through the use of social media marketing

Executive Officers of our subsidiary, Marquis

The executive officers of our subsidiary, Marquis and their ages as of December 31, 2015, are as follows:

	<u>Age</u>	<u>Position</u>
Tim Bailey	68	Chairman and CEO
Larry Heckman	64	President
David Stokes	59	VP of Manufacturing
Mark Rowland	44	VP of Extrusion Operations

Tim Bailey. Mr. Bailey is Chairman and CEO of Marquis. Mr. Bailey has 44 years of leadership experience in the floorcovering industry, including 21 years with Marquis Industries. Mr. Bailey holds a CPA license and spent the first 17 years of his career in a carpet industry-focused public accounting firm. In 1988, he left public accounting to become a shareholder and Executive VP / CFO of Grassmore, Inc., which manufactured grass carpet. Mr. Bailey installed the internal financial controls and helped Grassmore grow and oversaw its successful sale to Beaulieu of America in 1992. Mr. Bailey consulted with Beaulieu for two years before acquiring Marquis Industries in 1994. Marquis was small and struggling at the time of Mr. Bailey’s acquisition. He was able to build a strong leadership team and turn the company into a top 10 residential carpet manufacturer in the US with a diversified product line of soft and hard surfaces for the residential and commercial markets.

Larry Heckman. Mr. Heckman is President of Best Buy Flooring Source, a division of Marquis, that operates Marquis’ carpet mill. Mr. Heckman has 43 years of experience leading sales in the floorcovering industry, including 20 years with Marquis. He began his career in 1972 with Armstrong Cork Company, a leading flooring manufacturer, where he trained its distributor sales force. In 1974 he moved to Mountain State Distributors, a distributor of Armstrong products, and was promoted through its sales organization to VP of Sales. In 1985, Mr. Heckman co-founded the Columbine Carpet Corporation to sell carpet and vinyl specials to carpet dealers. Columbine grew to over \$18 million in sales by 1994 when he sold his interest to his partner. In 1994, Mr. Heckman joined D&W Carpet, which was acquired by Beaulieu of America. Mr. Heckman handled National Accounts and all Promotional Goods for Beaulieu before joining his friend Tim Bailey at Marquis Industries in 1996. Mr. Heckman leads sales for all core Marquis products and has contributed greatly to its growth over the years.

David Stokes. Mr. Stokes is VP of Manufacturing . Mr. Stokes has 41 years of manufacturing experience in the floorcovering industry, including 15 with Marquis. Mr. Stokes is an equipment guru who has been trained in some of the finest manufacturers in the industry. At Marquis, he designed the layout and installed machinery for carpet yarn twisting, heat-setting, air entangling, air twisting and space dyeing. He is responsible for production, safety and personnel. Also responsible for product cost, scheduling and working with utility company for power, gas, water and waste water disposal. He has been a consistent innovator, developing unique methods to twist and heat-set PET yarns on existing nylon machinery, as well as designing a space dye machine to dye PET yarns. He works closely with all suppliers, including raw material and machinery suppliers, to continue to develop materials and process machinery modifications and improvements.

Mark Rowland. Mr. Rowland is VP of Extrusion Operations . Mr. Rowland has 21 years of yarn extrusion experience, including eight with Marquis. He graduated with Most High Honors from The Georgia Institute of Technology with a degree in Polymer and Textile Chemistry and received a BS in Mathematics from Georgia College through the Dual Degree Program. Upon graduation, he moved to Dalton and began work in the carpet industry for Queen Carpet in the extrusion division as a Plant Chemist and later as Assistant to the Plant Manager. In 1998, Mr. Rowland co-founded an extrusion plant called Ideal Fibers. Ideal was acquired by The Dixie Group in early 1999. He was on a 5 year contract with The Dixie Group when the extrusion division was sold to Collins and Aikman Floorcoverings in 2002. He remained at C&A as the Plant Manager until 2006 when he helped Marquis build the current M&M Fibers extrusion plant.

Family Relationships

Jon Isaac, who is a director and serves as our President and Chief Executive Officer, is the son of Tony Isaac, who is also a director and serves as our Financial Planning and Strategist/Economist.

Involvement in Certain Legal Proceedings

To the best of our knowledge, there have been no events under any bankruptcy act, no criminal proceedings and no judgments, injunctions, orders or decrees material to the evaluation of the ability and integrity of any director, executive officer, promoter or control person of our Company during the past ten years.

Board Independence

Each year, the Board of Directors reviews the relationships that each director has with the Company and with other parties. Only those directors who do not have any of the categorical relationships that preclude them from being independent within the meaning of applicable NASDAQ Listing Rules and who the Board of Directors affirmatively determines have no relationships that would interfere with the exercise of independent judgment in carrying out the responsibilities of a director, are considered to be independent directors. The Board of Directors has reviewed a number of factors to evaluate the independence of each of its members. These factors include its members' current and historic relationships with the Company and its competitors, suppliers and customers; their relationships with management and other directors; the relationships their current and former employers have with the Company; and the relationships between the Company and other companies of which a member of the Company's Board of Directors is a director or executive officer.

After evaluating these factors, the Board of Directors has determined that a majority of the members of the Board of Directors, namely, Messrs. Butler, Gao and Sickmeyer do not have any relationships that would interfere with the exercise of independent judgment in carrying out their responsibilities as directors and that each such director is an independent director of the Company within the meaning of NASDAQ Listing Rule 5605(a)(2) and the related rules of the SEC.

Audit Committee

The Board has a separately-designated standing audit committee established in accordance with section 3(a)(58)(A) of the Exchange Act. Messrs. Gao (Chairman), Butler and Sickmeyer currently serve on our Audit Committee. Each member of the committee satisfies the independence standards specified in Rule 5605(a)(2) of the NASDAQ Listing Rules and the related rules of the SEC and has been determined by the Board to be “financially literate” with accounting or related financial management experience. The Board has also determined that Mr. Gao is an “audit committee financial expert” as defined under SEC rules and regulations, and qualifies as a financially sophisticated audit committee member as required under Rule 5605(c)(2)(A) of the NASDAQ Listing Rules.

Changes in Procedures for Director Nominations by Stockholders

There have been no changes to the procedures by which stockholders may recommend nominees to the Board.

Code of Ethics

We have adopted a Code of Business Conduct and Ethics that applies to all directors, officers and employees of our Company, including the Chief Executive Officer and other principal financial and operating officers of the Company. The Code of Business Conduct and Ethics is posted on our website at ir.livedeal.com/governance-documents. If we make any amendment to, or grant any waivers of, a provision of the Code of Business Conduct and Ethics that applies to our principal executive officer, principal financial officer, principal accounting officer or controller where such amendment or waiver is required to be disclosed under applicable SEC rules, we intend to disclose such amendment or waiver and the reasons therefor on Form 8-K or on our website.

SECTION 16(A) BENEFICIAL OWNERSHIP REPORTING COMPLIANCE

Section 16(a) of the Exchange Act requires our directors, certain of our officers and persons who own at least 10% of a registered class of our equity securities to file reports of ownership and changes in ownership with the SEC. Based solely on our review of the copies of such forms filed with the SEC and on written representations provided to us by our directors and officers, all Section 16(a) filing requirements applicable to our directors, officers and 10% or greater stockholders were complied with during the fiscal year that ended September 30, 2015, with the exception of the following:

Name	No. Late Reports (Form 4s)	No. Transactions Covered
Richard D. Butler, Jr.	1	Two transactions in which he was issued 1,525 shares of common stock in lieu of a cash payment of director compensation for the month of September 2015, and 1,583 shares of common stock in lieu of a cash payment of director compensation for the month of October 2015
Tony Isaac	1	One transaction in which 300,000 shares of restricted stock were issued and options to purchase 450,000 shares of common stock were granted under the 2014 Omnibus Equity Incentive Plan

ITEM 11. Executive Compensation

COMPENSATION DISCUSSION AND ANALYSIS

Overview

The purpose of this Compensation Discussion and Analysis (“CD&A”) is to provide material information about the Company’s compensation philosophy, objectives and other relevant policies and to explain and put into context the material elements of the disclosure that follows in this Annual Report on Form 10-K with respect to the compensation of our named executive officers (in this CD&A, referred to as the “NEOs”). For fiscal 2015, our NEOs were:

Jon Isaac, President and Chief Executive Officer
Tony Isaac, Financial Planning and Strategist/Economist
Byron Hsu, Chief Executive Officer, President and Chief Technical Officer of Modern Everyday, Inc.
Tim Bailey, Chairman and CEO of Marquis
Larry Heckman, President of Marquis
David Stokes, VP of Manufacturing of Marquis
Mark Rowland, VP of Extrusion Operations of Marquis

The Compensation Committee

The Compensation Committee annually reviews the performance and compensation of the Chief Executive Officer or other principal executive officer (currently, our President and Chief Executive Officer) and the Company’s other executive officers. Additionally, the Compensation Committee reviews compensation of outside directors for service on the Board and for service on committees of the Board, and administers the Company’s stock plans.

Role of Executives in Determining Executive Compensation

The Chief Executive Officer or other principal executive officer (currently, our President and Chief Executive Officer) provides input to the Compensation Committee regarding the performance of the other NEOs and offers recommendations regarding their compensation packages in light of such performance. The Compensation Committee is ultimately responsible, however, for determining the compensation of the NEOs, including the Chief Executive Officer or other principal executive officer.

Compensation Philosophy and Objectives

The Compensation Committee and the Board believe that the Company’s compensation programs for its executive officers should reflect the Company’s performance and the value created for its stockholders. In addition, we believe the compensation programs should support the goals and values of the Company and should reward individual contributions to the Company’s success. Specifically, the Company’s executive compensation program is intended to:

- attract and retain the highest caliber executive officers;
- drive achievement of business strategies and goals;
- motivate performance in an entrepreneurial, incentive-driven culture;
- closely align the interests of executive officers with the interests of the Company’s stockholders;
- promote and maintain high ethical standards and business practices; and
- reward results and the creation of stockholder value.

Factors Considered in Determining Compensation; Components of Compensation

The Compensation Committee makes executive compensation decisions on the basis of total compensation, rather than on individual components of compensation. We attempt to create an integrated total compensation program structured to balance both short and long-term financial and strategic goals. Our compensation should be competitive enough to attract and retain highly skilled individuals. In this regard, we utilize a combination of between two to four of the following types of compensation to compensate our executive officers:

- base salary;
- performance bonuses, which may be earned annually depending on the Company's achievement of pre-established goals;
- cash bonuses given at the discretion of the Board; and
- equity compensation, consisting of restricted stock and/or stock options.

The Compensation Committee periodically reviews each executive officer's base salary and makes appropriate recommendations to the Board. Salaries are based on the following factors:

- the Company's performance for the prior fiscal years and subjective evaluation of each executive's contribution to that performance;
- the performance of the particular executive in relation to established goals or strategic plans; and
- competitive levels of compensation for executive positions based on information drawn from compensation surveys and other relevant information.

Performance bonuses and equity compensation are awarded based upon the recommendation of the Compensation Committee. Restricted stock is granted under the Company's stockholder-approved equity incentive plan(s) and is priced at 100% of the closing price of the Company's common stock on the date of grant. Incentive and/or non-qualified stock options are generally granted under the Company's stockholder-approved equity incentive plan(s), as well, with the exercise price of such options set at 100% of the closing price of the Company's common stock on the date of grant. These grants are made with a view to linking executives' compensation to the long-term financial success of the Company.

Use of Benchmarking and Compensation Peer Groups

The Compensation Committee did not utilize any benchmarking measure in fiscal 2013 and traditionally has not tied compensation directly to a specific profitability measurement, market value of the Company's common stock or benchmark related to any established peer or industry group. Salary increases are based on the terms of the NEOs' employment agreements, if applicable, and correlated with the Board's and the Compensation Committee's assessment of each NEO's performance. The Company also generally seeks to increase or decrease compensation, as appropriate, based upon changes in an executive officer's functional responsibilities within the Company. Historically, the Compensation Committee has not used outside consultants in determining the compensation of the NEOs, and no such consultants were engaged during fiscal 2015.

Other Compensation Policies and Considerations; Tax Issues and Risk Management

The intention of the Company has been to compensate the NEOs in a manner that maximizes the Company's ability to deduct such compensation expenses for federal income tax purposes. However, the Compensation Committee has the discretion to provide compensation that is not "performance-based" under Section 162(m) of the Code if it determines that such compensation is in the best interests of the Company and its stockholders. For fiscal 2015, the Company expects to deduct all compensation expenses paid to the NEOs.

On an annual basis, the Compensation Committee evaluates the Company's compensation policies and practices for its employees, including the NEOs, to assess whether such policies and practices create risks that are reasonably likely to have a material adverse effect on the Company. Based on its evaluation, the Compensation Committee has determined that the Company's compensation policies and practices do not create such risks.

SUMMARY COMPENSATION TABLE

Name and principal Position	Year	Salary	Bonus	Stock Awards (2)	Option Awards (1)	All Other Compensation	Total
Jon Isaac	2015	\$ 200,000	\$ 0	\$ 759,000	\$ 62,041	\$ 0	\$ 1,021,041
<i>President and CEO</i>	2014	\$ 200,000	\$ 0	\$ 0	\$ 128,033	\$ 0	\$ 328,033
Tony Isaac	2015	\$ 123,692	\$ 0	\$ 759,000	\$ 636,142	\$ 0	\$ 1,518,834
<i>Financial Planning and Strategist/Economist</i>	2014	\$ 144,000	\$ 0	\$ 0	\$ 0	\$ 0	\$ 144,000
Byron Hsu (3)	2015	\$ 145,831	\$ 0	\$ 0	\$ 0	\$ 0	\$ 145,831
<i>CEO, President and CTO of Modern Everyday, Inc.</i>	2014	\$ 9,744	\$ 0	\$ 0	\$ 0	\$ 0	\$ 9,744
Tim Bailey	2015	\$ 41,250	\$ 0	\$ 0	\$ 0	\$ 0	\$ 41,250
<i>Chairman and CEO of Marquis Industries, Inc.</i>	2014	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0
Larry Heckman	2015	\$ 41,250	\$ 0	\$ 0	\$ 0	\$ 0	\$ 41,250
<i>President of Marquis Industries, Inc.</i>	2014	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0
David Stokes	2015	\$ 41,250	\$ 0	\$ 0	\$ 0	\$ 0	\$ 41,250
<i>VP Manufacturing of Marquis Industries, Inc.</i>	2014	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0
Mark Rowland	2015	\$ 41,250	\$ 0	\$ 0	\$ 0	\$ 0	\$ 41,250
<i>VP of Extrusions Operations</i>	2014	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0

- (1) The amounts reflect the dollar amount recognized for financial statement reporting purposes in accordance with ASC 718. These amounts reflect Live Venture's accounting expense for these awards, and do not correspond to the actual value that may be recognized by the NEOs.
- (2) Mr. Jon Isaac's and Mr. Tony Isaac were each awarded a stock bonus of 300,000 shares of the Company's common stock valued at \$759,000.
- (3) Mr. Hsu is the Chief Executive Officer, President and Chief Technical Officer of our subsidiary, Modern Everyday, Inc. Mr. Hsu receives \$160,000 in annual base salary. Mr. Hsu commenced employment in August 2014 and he was terminated in September 2015.

EMPLOYMENT AGREEMENTS

On January 13, 2012, our Board of Directors appointed Jon Isaac to serve as our President and Chief Executive Officer. At the time, the Company did not enter into a written Employment Agreement with Mr. Isaac, but he was paid an annual salary of \$1 for his services and was eligible to receive bonuses in such forms and amounts as determined by our Compensation Committee.

On February 14, 2013, the Company entered into a written Employment Agreement with Jon Isaac, pursuant to which he will continue serving as our President and Chief Executive Officer for the period from January 1, 2013 to January 1, 2016. The material terms of the Employment Agreement are as follows (all share amounts reflect the impact of the 3-for-1 forward stock split that was completed on February 11, 2014):

- \$200,000 annual base salary throughout the term of the Employment Agreement.
- Eligibility to receive performance-based bonuses in the sole discretion of the Company's Compensation Committee.
- Reimbursement for reasonable housing expenses.
- Grant of options to purchase 450,000 shares of the Company's common stock, subject to continued employment on the applicable vesting dates and the other terms and conditions summarized below:
 - 150,000 shares will vest on the first anniversary of the date of grant and be exercisable for five years after vesting at an exercise price of \$1.67 per share, which was reduced to \$0.83 per share in June 2015;
 - 150,000 shares will vest in 12 equal monthly installments, beginning on the date that is 13 months after the date of grant and ending on the second anniversary of the date of grant, and be exercisable for five years after vesting at an exercise price of \$2.50 per share which was reduced to \$1.25 per share in June 2015;
 - 150,000 shares will vest in 12 equal monthly installments, beginning on the date that is 25 months after the date of grant and ending on the third anniversary of the date of grant, and be exercisable for five years after vesting at an exercise price of \$3.33 per share, which was reduced to \$0.83 per share in June 2015

We do not have a written Employment Agreement with Tony Isaac.

On August 25, 2014, the Company entered into a written Employment Agreement with Byron Hsu, pursuant to which he will serve as President, Chief Executive Officer, and Chief Technical Officer of our newly acquired subsidiary, Modern Everyday, Inc. The material terms of the Employment Agreement are as follows:

- The initial term of the agreement is until February 28, 2016.
- We agreed to pay Mr. Hsu a salary of \$160,000 annually. If Mr. Hsu is requested to perform and does perform duties that result in substantial increases in responsibility beyond the scope of employment, we and Mr. Hsu will negotiate in good faith for an increased base salary.
- From time to time, the Company may, in its discretion, pay a bonus to Mr. Hsu.
- We have agreed that by June 30, 2015 we shall implement a bonus incentive plan for Mr. Hsu which shall be paid on or before February 28, 2016.
- Mr. Hsu will be eligible for all customary and usual fringe benefits generally available to executives of Company subject to the terms and conditions of Company's benefit plan documents and shall receive a company car, health and dental insurance.

In September 2015, Mr. Hsu was terminated.

OUTSTANDING EQUITY AWARDS AT FISCAL YEAR END

The following table summarizes all stock options held by the NEOs as of the end of fiscal 2015.

Name	Number of Securities Underlying Unexercised Options (#)	Option Exercise Price (\$)	Option Expiration Date
Jon Isaac	150,000 (1)	\$0.83	1/1/2019
	150,000 (1)	\$1.25	1/1/2020
	150,000 (1)	\$1.67	1/1/2021
Tony Isaac	300,000 (2)	\$2.53	6/30/2020
	150,000 (2)	\$2.53	6/30/2021
Tim Bailey	-0-	\$ –	–
Larry Heckman	-0-	\$ –	–
David Stokes	-0-	\$ –	–
Mark Rowland	-0-	\$ –	–

(1) 150,000 shares (\$0.83 per share exercise price) vested on January 1, 2014. 150,000 shares (\$1.25 per share exercise price) will vest in 12 equal monthly installments between February 1, 2014 and January 1, 2015. 150,000 shares (\$1.67 per share exercise price) will vest in 12 equal monthly installments between February 1, 2015 and January 1, 2016.

(2) 300,000 shares (\$2.53 per share exercise price) vested on June 30, 2015 and 150,000 shares (\$2.53 per share exercise price) will vest on June 30, 2016.

DIRECTOR COMPENSATION

The table on the following page summarizes compensation paid to each of our non-employee directors who served in such capacity during fiscal 2015.

Name	Fees Earned or Paid in Cash (\$)	Stock Awards (\$)(1)	Total (\$)
Richard D. Butler, Jr.	–	30,000	30,000
Dennis Gao	30,000	–	30,000
Tyler Sickmeyer	18,000	–	18,000

(1) Amounts represent value of shares granted to directors in lieu of paying monthly cash director fees earned in fiscal 2015 in cash. The number of shares granted was determined by dividing the cash director fee payable to the applicable director for the immediately preceding month by the price of the Company's common stock, as reported by the NASDAQ Capital Market, on the date of grant.

Director Compensation Arrangements

Mr. Butler receives \$2,500 monthly, or \$30,000 annually in cash compensation for his services as a director. With the consent of the Company, Mr. Butler received stock in lieu of monthly cash compensation earned in August and September.

Prior to May 2014, Mr. Gao received \$2,083 monthly, or \$25,000 annually in cash compensation for his services as a director. Currently, Mr. Gao receives \$2,500 monthly, or \$30,000 annually in cash compensation for his services as a director.

Mr. Sickmeyer receives \$1,500 monthly, or \$18,000 annually in cash compensation for his services as a director.

EQUITY COMPENSATION PLAN INFORMATION

The following table summarizes securities available for issuance under Live Venture's equity compensation plans as of September 30, 2015:

Plan Category	Number of securities to be issued upon exercise of outstanding options, warrants and rights (a)	Weighted-average exercise price of outstanding options, warrants and rights (b)	Number of securities remaining available for future issuance under equity compensation plans (excluding securities reflected in column (a)) (c)
Equity compensation plans approved by security holders (1)	1,050,000	\$1.87	–
Equity compensation plans approved by security holders (2)	–	–	–
Equity compensation plans not approved by security holders	–	–	–
Total	1,050,000	\$1.87	–

(1) Comprised of the LiveDeal, Inc. Amended and Restated 2003 Stock Plan

(2) Comprised of the 2014 Omnibus Equity Incentive Plan

Live Ventures Incorporated Amended and Restated 2003 Stock Plan

During the fiscal year ended September 30, 2002, our stockholders approved the 2002 Employees, Officers & Directors Stock Option Plan (the "2002 Plan"), which was intended to replace our 1998 Stock Option Plan (the "1998 Plan"). The 2002 Plan was never implemented, however, and no options, shares or any other securities were issued or granted under the 2002 Plan. There were 90,000 shares of our common stock authorized for issuance under the 2002 Plan. On June 30, 2003 and July 21, 2003, respectively, the Board and a majority of our stockholders terminated both the 1998 Plan and the 2002 Plan and approved our 2003 Stock Plan. The 90,000 shares of common stock previously allocated to the 2002 Plan were re-allocated to the 2003 Stock Plan.

In April 2004, our stockholders and the Board approved an amendment to the 2003 Stock Plan to increase the aggregate number of shares available thereunder by 60,000 shares in order to have an adequate number of shares available for future grants. At our 2007 Annual Meeting, our stockholders approved an amendment that increased the aggregate number of shares available for issuance under the 2003 Stock Plan to 240,000 shares. At our 2008 Annual Meeting, our stockholders rejected an amendment that would have increased the number of shares available for issuance from 240,000 shares to 330,000 shares. At our 2009 Annual Meeting, our stockholders approved an amendment that increased the aggregate number of shares available for issuance under the 2003 Stock Plan by 180,000 shares, to 420,000 shares in the aggregate. At our 2012 Annual Meeting, our stockholders approved an amendment that increased the aggregate number of shares available for issuance under the 2003 Stock Plan by 600,000 shares, to 1,020,000 shares in the aggregate.

2014 Omnibus Equity Incentive Plan

On January 7, 2014, our Board of Directors adopted the 2014 Omnibus Equity Incentive Plan (the "2014 Plan"), which authorizes the issuance of distribution equivalent rights, incentive stock options, non-qualified stock options, performance stock, performance units, restricted ordinary shares, restricted stock units, stock appreciation rights, tandem stock appreciation rights and unrestricted ordinary shares to our officers, employees, directors, consultants and advisors. The Company has reserved up to 1,800,000 shares of common stock for issuance under the 2014 Plan.

ITEM 12. Security Ownership of Certain Beneficial Owners and Management and Related Stockholder Matters

The following table sets forth information regarding the beneficial ownership of our common stock as of December 31, 2015 of (i) each executive officer and each director of our Company; (ii) all executive officers and directors of our Company as a group; and (iii) each person known to the Company to be the beneficial owner of more than 5% of our common stock. We deem shares of our common stock that may be acquired by an individual or group within 60 days of December 31, 2015, pursuant to the exercise of options or warrants or conversion of convertible securities, to be outstanding for the purpose of computing the percentage ownership of such individual or group, but these shares are not deemed to be outstanding for the purpose of computing the percentage ownership of any other person or group shown in the table. Percentage of ownership is based on 16,903,014 shares of common stock outstanding on December 31, 2015. The information as to beneficial ownership was either (i) furnished to us by or on behalf of the persons named or (ii) determined based on a review of the beneficial owners' Schedules 13D and Section 16 filings with respect to our common stock. Unless otherwise indicated, the business address of each person listed is 325 East Warm Springs Road, Suite 102, Las Vegas, Nevada 89119..

Name of Beneficial Owner	Amount and Nature of Beneficial Ownership	Percentage of Class
Executive Officers and Directors:		
Jon Isaac (1)	8,991,427	43.3%
Tony Isaac	600,000	3.5%
Richard D. Butler, Jr.	79,923	*
Dennis Gao	—	—
Tyler Sickmeyer	—	—
All Executive Officers and Directors as a group (5 persons)	9,671,350	46.0%
Other 5% Stockholders:		
Isaac Capital Group, LLC (2) 3525 Del Mar Heights Rd. Suite 765 San Diego, California 92130	8,291,427	40.6%

*Represents less than 1% of our issued and outstanding common stock.

- (1) Includes 4,750,551 shares of common stock owned by Isaac Capital Group, LLC ("ICG"), of which Jon Isaac is the President and sole member and according has sole voting and dispositive power with respect to such shares. Also includes warrants to purchase 3,540,876 additional shares of common stock at exercise prices ranging from \$0.55 to \$0.952 per share held by ICG. Jon Isaac owns 100,000 shares of common stock. Finally, Mr. Isaac holds options to purchase up to 450,000 shares of common stock at exercise prices ranging from \$0.83 to \$1.67 per share, all of which are exercisable as of (or within 60 days after) December 31, 2015.
- (2) Includes 4,750,551 shares of common stock owned by ICG. Also includes warrants to purchase 3,540,876 additional shares of common stock at exercise prices ranging from \$0.55 to \$0.952 per share held by ICG.

ITEM 13. Certain Relationships and Related Transactions, and Director Independence

Executive Office Space

Our San Diego executive office is located at 3525 Del Mar Heights Rd. This office is currently being provided to us by a company that is a related party to Isaac Capital Group LLC, one of our largest stockholders, which is owned by Jon Isaac, our President and Chief Executive Officer and one of our directors.

Mezzanine Loan from Isaac Capital Fund

In connection with the purchase of Marquis Industries Inc., the Company entered into a mezzanine loan in an amount of up to \$7,000,000 provided by Isaac Capital Fund, a private lender whose managing member is Jon Isaac, the chief executive officer of the Company.

The Isaac Capital Fund mezzanine loan bears interest at 12.5% with payment obligations of interest each month and all principal due in January 2021 (six months after the final payments are due under the Bank of America Term and Revolving Loan). As of September 30, 2015, there was \$6,495,825 outstanding on this mezzanine loan.

ICG Note

On January 23, 2014, the Company issued a note to Isaac Capital Group ("ICG"), a related party, in the principal amount of \$500,000. Because the conversion price of \$2.29 was less than the stock price, this gave rise to a beneficial conversion feature valued at \$500,000. The Company recognized this beneficial conversion feature as a debt discount and additional paid in capital. The debt discount is being amortized over the one year term. On December 3, 2014, ICG converted the note into 674,370 shares of common stock, therefore the remaining debt discount of \$158,219 was written off and recognized as interest expense. In addition, upon the conversion of note, the Company issued to ICG a warrant to acquire 674,370 additional shares of the Company's common stock at an exercise price of \$0.95 per share. The fair value of the warrants issued in connection with the conversion of note was \$1,853,473 and was immediately recognized as

interest expense.

Procedures for Approval of Related Party Transactions

In accordance with its charter, the Audit Committee reviews and recommends for approval all related party transactions (as such term is defined for purposes of Item 404 of Regulation S-K). The Audit Committee participated in the approval of the transactions described above.

ITEM 14. Principal Accounting Fees and Services

Each year, the Audit Committee approves the annual audit engagement in advance. The Audit Committee also has established procedures to pre-approve all non-audit services provided by the Company's independent registered public accounting firm. All 2015 and 2014 non-audit services listed below were pre-approved.

Audit Fees: This category includes the audit of our annual financial statements and review of financial statements included in our annual and periodic reports that are filed with the SEC. This category also includes advice on audit and accounting matters that arose during, or as a result of, the audit or the review of interim financial statements, and the preparation of an annual "management letter" on internal control and other matters.

Audit-Related Fees: This category consists of travel expenses for the auditors.

Tax Fees: This category consists of professional services rendered by our independent auditors for tax compliance and tax advice. The services for the fees disclosed under this category include technical tax advice.

All Other Fees: This category includes services performed for the preparation of responses to SEC and NASDAQ correspondence, as well as reviews of Registration Statements that we file from time to time with the SEC.

We paid the following fees to our independent registered public accounting firm, Anton & Chia for work performed in in fiscal 2014 and 2015:

	<u>2014</u>	<u>2015</u>
Audit Fees	\$ 50,000	\$ 97,613
Audit-Related Fees	–	\$ 96,532
Tax Fees	–	–
All Other Fees	2,002	–
Total	<u>52,002</u>	<u>194,145</u>

We paid the following fees to our prior independent registered public accounting firm Kabani & Company, Inc. for work performed through May 6, 2014:

	<u>2014</u>
Audit Fees	\$ 55,000
Audit-Related Fees	838
Tax Fees	–
All Other Fees	13,500
Total	<u>69,338</u>

PART IV

ITEM 15. Exhibits and Financial Statement Schedules

The following exhibits are filed with or incorporated by reference into this Annual Report.

Exhibit Number	Description	Previously Filed as Exhibit	Date Previously Filed
1.1	Engagement Agreement, dated as of January 7, 2014, by and between the Registrant and Chardan Capital Markets LLC	Exhibit 1.1 to the Registrant's Annual Report on Form 10-K filed on January 10, 2014	1/10/14
3.1	Amended and Restated Articles of Incorporation	Exhibit 3.1 to the Registrant's Current Report on Form 8-K filed on August 15, 2007	8/15/07
3.1.1	Certificate of Change	Exhibit 3.1 to the Registrant's Current Report on Form 8-K filed on September 7, 2010	9/7/10
3.1.2	Certificate of Correction	Exhibit 3.1 to the Registrant's Current Report on Form 8-K filed on March 11, 2013	3/11/13
3.1.3	Certificate of Change	Exhibit 3.1 to the Registrant's Quarterly Report on Form 10-Q filed on February 14, 2014	2/14/14
3.1.4	Articles of Merger	Exhibit 3.1.4 to the Registrant's Current Report on Form 8-K filed on October 8, 2015	10/8/15
3.2	Amended and Restated Bylaws	Exhibit 3.1 to the Registrant's Current Report on Form 8-K filed on December 15, 2011	12/15/11
10.1*	LiveDeal, Inc. Amended and Restated 2003 Stock Plan*	Exhibit 10.1 to the Registrant's Annual Report on Form 10-K for the fiscal year ended September 30, 2007	12/20/07
10.1.1*	First Amendment to Amended and Restated 2003 Stock Plan*	Appendix A to 2009 Proxy Statement	1/29/09
10.1.2*	Second Amendment to the LiveDeal, Inc. Amended and Restated 2003 Stock Plan*	Appendix A to 2012 Proxy Statement	1/27/12
10.2*	Form of 2003 Stock Plan Restricted Stock Agreement*	Exhibit 10 to the Registrant's Quarterly Report on Form 10-QSB for the quarterly period ended March 31, 2005	5/16/05
10.3*	Form of 2003 Stock Plan Stock Option Agreement*	Exhibit 10.3 to the Registrant's Annual Report on Form 10-K for the fiscal year ended September 30, 2008	12/29/08
10.5	Note and Warrant Purchase Agreement, dated April 3, 2012, by and between the Registrant and Isaac Capital Group LLC	Exhibit 10.1 to the Registrant's Quarterly Report on Form 10-Q filed on May 15, 2012	5/15/12
10.5.1	First Amendment to Note Purchase Agreement, made and entered into as of April 3, 2012, by and between the Registrant and Isaac Capital Group LLC	Exhibit 10.12.1 to the Registrant's Annual Report on Form 10-K filed on January 15, 2013	1/15/13

10.5.2	Senior Subordinated Convertible Note (under Note Purchase Agreement)	Exhibit 10.2 to the Registrant's Quarterly Report on Form 10-Q filed on May 15, 2012	5/15/12
10.5.3	Subordinated Guaranty (under Note Purchase Agreement)	Exhibit 10.3 to the Registrant's Quarterly Report on Form 10-Q filed on May 15, 2012	5/15/12
10.5.4	Form of Warrant (under Note Purchase Agreement)	Exhibit 10.4 to the Registrant's Quarterly Report on Form 10-Q filed on May 15, 2012	5/15/12
10.6*	Employment Agreement, dated January 1, 2013, by and between the Registrant and Jon Isaac	Exhibit 10.1 to the Registrant's Quarterly Report on Form 10-Q filed on May 14, 2013	5/14/13
10.7	Asset Purchase Agreement, dated September 9, 2013, by and between the Registrant and Novalk Apps S.A.S.	Exhibit 10.9 to the Registrant's Annual Report on Form 10-K filed on January 10, 2014	1/10/14
10.8	Note Purchase Agreement, dated as of January 7, 2014, by and between the Registrant and Kingston Diversified Holdings LLC	Exhibit 10.10 to the Registrant's Annual Report on Form 10-K filed on January 10, 2014	1/10/14
10.9	Convertible Note (under 2014 Note Purchase Agreement)	Exhibit 10.11 to the Registrant's Annual Report on Form 10-K filed on January 10, 2014	1/10/14
10.10	Form of Warrant (under 2014 Note Purchase Agreement)	Exhibit 10.12 to the Registrant's Annual Report on Form 10-K filed on January 10, 2014	1/10/14
10.11*	2014 Omnibus Equity Incentive Plan	Appendix A to 2014 Proxy Statement	6/23/14
10.12	Share Purchase Agreement, by and among Live Goods, LLC, DealTicker Inc., from Julian Gleizer and Daniel Abramov	Exhibit 10.12 to the Registrant's Annual Report on Form 10-K filed on December 29, 2014	12/29/14
10.13	Stock Purchase Agreement, by and among the Registrant, Modern Everyday Inc., & Byron Hsu, dated August 24, 2014	Exhibit 99.1 to the Current Report on Form 8-K filed on August 24, 2014	8/24/14
10.14	Engagement Agreement, dated as of May 16, 2014, by and between the Registrant and Chardan Capital Markets LLC	Exhibit 10.1 to the Registrant's Annual Report on Form 10-Q filed on May 20, 2014	5/20/14
10.15	Purchase Agreement, dated as of July 6, 2015 by and among the Registrant, Marquis Affiliated Holdings LLC, Marquis Industries, Inc. and the stockholders of Marquis Industries, Inc.	Filed herewith	
10.16	Loan and Security Agreement, dated as of July 6, 2015 by and among Marquis Affiliated Holdings LLC, Marquis Industries, Inc., A-O Industries, LLC, Astro Carpet Mills, LLC, Constellation Industries, LLC and S F Commercial Properties, LLC , as Borrowers, and Bank of America, N.A. as Lender.	Filed herewith	
10.17	Subordinated Loan and Security Agreement, dated as of July 6, 2015 by and among Marquis Affiliated Holdings, LLC, Marquis Industries, Inc., A-O Industries, LLC, Astro Carpet Mills, LLC, Constellation Industries, LLC and SF Commerical Properties, LLC as Borrowers and Isaac Capital Fund I, LLC as Lender	Filed herewith	
10.18	Lease Agreement, effective July 6, 2015, by and between 716 River Street Partners LLC, as lessor and Constellation Industries, LLC as lessee	Filed herewith	
14	Code of Business Conduct and Ethics, Adopted December 31, 2003	Exhibit 14 to the Registrant's Quarterly Report on Form 10-QSB for the period ended March 31, 2004	5/13/04
23.1	Consent of Anton & Chia, LLP	Exhibit 23.1 to the Registrant's Annual Report on Form 10-K filed on January 13, 2016	1/13/16

31.1	Certification of the Chief Executive Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002	Filed herewith	
31.2	Certification of the Chief Financial Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 200	Filed herewith	
32	Certification pursuant to 18 U.S.C. Section 1350	Filed herewith	
101	The following materials from the Company's Annual Report on Form 10-K, formatted in XBRL (eXtensible Business Reporting Language): (i) the Consolidated Balance Sheets as of September 30, 2015 and 2014, (ii) the Consolidated Statements of Operations for the Years Ended September 30, 2015 and 2014, (iii) Consolidated Statements of Stockholders' Equity for the Years Ended September 30, 2015 and 2014, (iv) the Consolidated Statements of Cash Flows for the Years Ended September 30, 2015 and 2014, and (v) the Notes to Consolidated Financial Statements	Exhibits 101 to the Registrant's Annual Report on Form 10-K filed on January 13, 2016	01/13/16

* Management contract or compensatory plan or arrangement

SIGNATURES

Pursuant to the requirements of Section 13 or 15(d) of the Exchange Act, the registrant has caused this report to be signed on its behalf by the undersigned, thereunto duly authorized.

Dated: January 13, 2016

Live Ventures, Incorporated

/s/ Jon Isaac

Jon Isaac

President and Chief Executive Officer

Pursuant to the requirements of the Securities Exchange Act of 1934, this report has been signed below by the following persons on behalf of the registrant and in the capacities and on the dates indicated.

Signature	Title	Date
<u>/s/ Jon Isaac</u> Jon Isaac	Chief Executive Officer, President and Chief Financial and Accounting Officer (Principal Executive Officer and Principal Financial and Accounting Officer) and Director	January 13, 2016
<u>/s/ Tony Isaac</u> Tony Isaac	Financial Planning and Strategist/Economist and Director	January 13, 2016
<u>/s/ Richard D. Butler, Jr.</u> Richard D. Butler, Jr.	Director	January 13, 2016
<u>/s/ Dennis Gao</u> Dennis Gao	Director	January 13, 2016
<u>/s/ Tyler Sickmeyer</u> Tyler Sickmeyer	Director	January 13, 2016

Purchase Agreement

This Purchase Agreement, "Agreement", is entered into as of July 6, 2015, by and among Live Ventures Inc., a Nevada corporation, "Live", Marquis Affiliated Holdings LLC, a Delaware limited liability company, "Purchaser", Marquis Industries, Inc., a Georgia corporation, the "Company", all of the Company's stockholders, Timothy A. Bailey, a Georgia resident, "Bailey", Larry Heckman, a Georgia resident, "Heckman", David Stokes, a Georgia resident, "Stokes", and Mark Rowland, a Georgia resident, "Rowland", with Bailey, Heckman, Stokes, and Rowland, individually and interchangeably, a "Stockholder", and, in the aggregate, the "Stockholders", and the Company and the Stockholders, individually and interchangeably, a "Seller", and, in the aggregate, "Sellers", and Timothy A. Bailey, in his capacity as the representative of the Stockholders for certain purposes of this Agreement, "Stockholders' Representative", and their respective heirs, successors, and permitted assigns.

Witnesseth:

Whereas, Purchaser desires to purchase all of the issued and outstanding shares of capital stock of the Company and the Stockholders desire to sell all of the issued and outstanding shares of capital stock of the Company to Purchaser pursuant to the terms and subject to the conditions of this Agreement;

Whereas, on the Closing Date, Live shall contribute Four Million Eight Hundred Thousand Dollars (\$4,800,000) in cash (the "Live Contribution Amount") to Purchaser as a contribution of capital to Purchaser in exchange for eighty percent (80%) of the equity interests in Purchaser and the Stockholders shall contribute One Million Two Hundred Thousand Dollars (\$1,200,000) in cash (the "Stockholders' Contribution Amount") to Purchaser as a contribution of capital to Purchaser in exchange for twenty percent (20%) of the equity interests in Purchaser; and

Whereas, Purchaser desires that the Stockholders be employed as certain of the initial operating officers of the Company and the Stockholders desire to be so employed;

Now, therefore, in consideration of the aforementioned premises and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties, intending to be legally bound hereby, agree as follows:

1. Definitions.

1.01 Definitions.

The following terms have the meanings specified in this Section 1.01:

"Accounts Receivable" means all trade and other accounts receivable and other indebtedness owing to Marquis, including the benefit of all collateral, security, guaranties, and similar undertakings received or held in connection therewith and any claim, remedy, or other right related to the foregoing, but excluding the related-party receivables and employee receivables that constitute Other Non-Operating Assets.

"Affiliate" of a Person means any other Person that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, such Person. The term "control" (including the terms "controlled by" and "under common control with") means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, by contract, or otherwise. For the sake of clarity and notwithstanding the foregoing, none of the Stockholders shall constitute an Affiliate of Purchaser.

"Antitrust Law" means the national and directly effective legislation of any jurisdiction that governs the conduct of companies or individuals in relation to restrictive or other anti-competitive agreements or practices (including cartels, pricing, resale pricing, market sharing, bid rigging, terms of trading, purchase or supply, and joint ventures), dominant or monopoly market positions (whether held individually or collectively), and the control of acquisitions or mergers.

"AOI" means A-O Industries, LLC, a Georgia limited liability company and wholly owned subsidiary of the Company.

"Artisans Lease" means the Lease Agreement between Artisans Lessor, as lessor thereunder, and Constellation, as lessee thereunder, in respect of the Artisans Property, to be executed and delivered at the Closing substantially in the form attached hereto as Exhibit A.

"Artisans Lessor" means 716 River Street Partners, LLC, a Georgia limited liability company formed for the purposes of consummating the transactions contemplated by Section 3.02 and entering into the Artisans Lease.

“Artisans Property” means the real property located at 716 River Street, Calhoun, Georgia 30701, together with all buildings, structures, and other improvements thereon (including all easements, rights-of-way, tenements, hereditaments, appurtenances, fixtures, and other real property rights appertaining thereto) and described more particularly in Exhibit A to the Artisans Lease.

“Astro” means Astro Carpet Mills, LLC, a Georgia limited liability company and wholly owned subsidiary of the Company.

“Books and Records” means all business, employee and financial records, books, ledgers, files, correspondence, documents, lists, studies, and reports, including customer lists, supplier lists and equipment repair, maintenance, service, personnel, payroll, employee benefit, quality control, and insurance records, whether written, electronically stored, or otherwise recorded.

“Business” means the business conducted or planned to be conducted by Marquis, including the extrusion and sale of specialty yarns and the manufacture and sale of carpet, rugs, and hard surfaces through multiple distribution channels, the financial results of which are included in the Books and Records.

“Business Day” means any day that is not a Saturday, Sunday, or any other day on which banks are required or authorized by law to be closed in Atlanta, Georgia.

“Cash” means cash on deposit in Marquis’ Deposit Accounts and Marquis’ Factor Accounts and customer remittances postmarked before the Closing Date.

“CERCLA” means the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986, 42 U.S.C. §§ 9601 et seq.

“Closing Date Balance Sheet” means the consolidated balance sheet of Marquis as of the Closing Date (without giving effect to the Transactions), prepared according to GAAP and on a basis consistent with the historical accounting policies, methodologies, practices, and assumptions applied by Marquis, provided such historical policies, methodologies, practices, and assumptions are in accordance with GAAP.

“Closing Date Net Asset Value” means all assets (excluding goodwill) less current and long-term liabilities of Marquis (but shall only include the Closing Debt Amount to the extent such amount is not paid from the Purchase Price at Closing pursuant to Section 2.06.02(d)), each as shown on the Closing Date Balance Sheet; *provided, however*, that the determination of Closing Date Net Asset Value shall exclude the following as of the Closing Date: (i) Cash, (ii) Other Non-Operating Assets, and (iii) the book value of the Artisans Property. Subject to the proviso in the immediately preceding sentence, the Closing Date Net Asset Value shall be prepared in accordance with GAAP, and on a basis consistent with the historical accounting policies, methodologies, practices, and assumptions applied by Marquis, provided such historical policies, methodologies, practices, and assumptions are in accordance with GAAP. An example of the methodology to be used to calculate the Closing Date Net Asset Value is set forth on Schedule 1A.

“Closing Debt Amount” means the amount of Debt as of the Closing.

“Code” means the Internal Revenue Code of 1986, as from time to time amended.

“Confidential Information” means information concerning the Business or Marquis, including information relating to customers, clients, suppliers, distributors, investors, lenders, consultants, independent contractors or employees, customer and supplier lists, price lists and pricing policies, cost information, financial statements and information, budgets and projections, business plans, production costs, market research, marketing plans and proposals, sales and distribution strategies, manufacturing and production processes and techniques, processes and business methods, technical information, pending projects and proposals, new business plans and initiatives, research and development projects, inventions, discoveries, ideas, technologies, trade secrets, know-how, formulae, technical data, designs, patterns, marks, names, improvements, industrial designs, compositions, works of authorship and other Intellectual Property, devices, samples, plans, drawings and specifications, photographs and digital images, computer software and programming, all other confidential information and materials relating to the Business or Marquis, and all notes, analyses, compilations, studies, summaries, reports, manuals, documents, and other materials prepared by or for any Seller containing or based in whole or in part on any of the foregoing, whether in verbal, written, graphic, electronic, or any other form and whether or not conceived, developed, or prepared in whole or in part by any Seller for the Business or Marquis. Confidential Information shall not include information that is already in the public domain through no wrongful act of any Seller.

“Consent” means any consent, approval, authorization, permission, or waiver of any Person.

“Constellation” means Constellation Industries, LLC, a Georgia limited liability company and wholly owned subsidiary of the Company.

“Contract” means any contract, obligation, understanding, commitment, lease, license, purchase order, bid, or other agreement, whether written or oral or whether express or implied, together with all amendments and other modifications thereto.

“Debt” means, as to Marquis: (a) obligations for borrowed money; (b) obligations evidenced by bonds, notes, debentures, or other similar instruments; (c) obligations to pay the deferred purchase price of capital assets; (d) capitalized lease obligations; (e) guaranteed indebtedness or other obligations of others; (f) obligations secured by an Encumbrance existing on any property or asset owned by such Person; (g) reimbursement obligations relating to letters of credit, bankers’ acceptances, surety or other bonds, or similar instruments; and (h) net payment obligations pursuant to any credit derivative agreement.

“Employment Agreements” means the Employment Agreements between the Company and the Stockholders, substantially in the form attached to this Agreement as Exhibits B-E.

“Encumbrance” means any lien, mortgage, deed to secure debt, pledge, encumbrance, charge, claim, community property interest, condition, equitable interest, option, security interest, easement, encroachment, right of way, right of first refusal, or restriction of any kind, including any restriction on use, voting, transfer, receipt of income, or exercise of any other attribute of ownership.

“Environmental Claim” means any Proceeding, Order, lien, fine, penalty, or, as to each, any settlement or judgment arising therefrom, by or from any Person alleging liability of whatever kind or nature (including liability or responsibility for the costs of enforcement proceedings, investigations, cleanup, governmental response, removal or remediation, natural resources damages, property damages, personal injuries, medical monitoring, penalties, contribution, indemnification, and injunctive relief) arising out of, based on or resulting from: (a) the presence, Release of, or exposure to, any Hazardous Substances; or (b) any actual or alleged non-compliance with any Environmental Law or term or condition of any Environmental Permit.

“Environmental Laws” means all Laws relating to the environment (including ambient air, soil, surface water or groundwater, or subsurface strata), public health or safety, pollution, damage to or protection of the environment, endangered or threatened species, environmental conditions, Releases or threatened Releases of Hazardous Substances into the environment, or the use, manufacture, processing, distribution, treatment, storage, generation, disposal, remediation, transport, or handling of Hazardous Substances, whether existing in the past or present. Environmental Laws shall include, but are not limited to, the following Laws, and the regulations promulgated thereunder, as the same have been amended from time to time: the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986, 42 U.S.C. §§ 9601 et seq.; the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended by the Hazardous and Solid Waste Amendments of 1984, 42 U.S.C. §§ 6901 et seq.; the Federal Water Pollution Control Act of 1972, as amended by the Clean Water Act of 1977, 33 U.S.C. §§ 1251 et seq.; the Toxic Substances Control Act of 1976, as amended, 15 U.S.C. §§ 2601 et seq.; the Emergency Planning and Community Right-to-Know Act of 1986, 42 U.S.C. §§ 11001 et seq.; the Clean Air Act of 1966, as amended by the Clean Air Act Amendments of 1990, 42 U.S.C. §§ 7401 et seq.; and the Occupational Safety and Health Act of 1970, as amended, 29 U.S.C. §§ 651 et seq.

“Environmental Permits” shall mean all Permits required under or issued pursuant to Environmental Laws.

“Environmental Reports” means any Phase I Environmental Assessments and Asbestos and Mold Survey and subsequent recommended investigations and findings conducted on the Real Property by any Representatives of Purchaser or Purchaser’s financing sources (or their Representatives) for the Financing and any historical Phase I and Phase II reports commissioned by Marquis and delivered to Purchaser.

“ERISA” means the Employee Retirement Income Security Act of 1974 as from time to time amended, and the regulations promulgated thereunder.

“ERISA Affiliate” means all employers (whether or not incorporated) that would be treated together with Marquis or any of its Affiliates as a “single employer” within the meaning of Section 414 of the Code.

“Exchange Act” means the United States Securities Exchange Act of 1934, as amended, or any successor federal statute, and the rules and regulations thereunder, which shall be in effect at the time.

“Financial Statements” means the consolidated financial statements of Marquis referred to in Section 4.05.

“GAAP” means generally accepted accounting principles in the United States as set forth in pronouncements of the Financial Accounting Standards Board (and its predecessors) and the American Institute of Certified Public Accountants and, unless otherwise specified, as in effect on the date hereof or, with respect to any Financial Statements, the date such financial statements were prepared.

“Governmental Body” means any federal, state, local, foreign, or other government or quasi-governmental authority or any department, agency, subdivision, court, or other tribunal of any of the foregoing.

“Hazardous Substance” means: (a) any substance, material, chemical, waste product, derivative, compound, mixture, solid, liquid, mineral or gas, in each case, whether naturally occurring or manmade, that is hazardous, acutely hazardous, toxic, or words of similar import or regulatory effect under Environmental Laws and (b) any petroleum or petroleum-derived products, radon, radioactive materials or wastes, asbestos in any form, lead or lead-containing materials, polychlorinated biphenyls and urea formaldehyde.

“Insurance Policies” means those insurance policies insuring the Business and identified in Schedule 4.23, but excluding any life insurance owned by Marquis on the life of any Stockholder.

“Intellectual Property” means all intellectual property and industrial property rights and assets, and all rights, interests, and protections that are associated with, similar to, or required for the exercise of, any of the foregoing, however arising, pursuant to the Laws of any jurisdiction throughout the world, whether registered or unregistered, including any and all: (a) inventions (whether patentable or unpatentable and whether or not reduced to practice), improvements thereto, and patents, patent applications, and patent disclosures, together with reissuances, continuations, continuations-in-part, revisions, extensions, and reexaminations thereof; (b) trademarks, service marks, trade dress, logos, trade names, and corporate names, together with translations, adaptations, derivations, and combinations thereof and including goodwill associated therewith, and applications, registrations, and renewals in connection therewith; (c) works of authorship, expressions, designs, and design registrations, whether or not copyrightable, copyrightable works, copyrights, and applications, registrations, and renewals in connection therewith; (d) mask works and applications, registrations, and renewals in connection therewith; (e) trade secrets and Confidential Information; (f) computer software, in object and source code format (including data and related documentation); (g) internet domain names, whether or not trademarks, registered in any top-level domain by any authorized private registrar or Governmental Body, web addresses, web pages, websites and related content, accounts with Twitter, Facebook, and other social media companies and the content found thereon and related thereto, and URLs; (h) software and firmware, including data files, source code, object code, application programming interfaces, architecture, files, records, schematics, computerized databases, and other related specifications and documentation; (i) other proprietary rights; and (j) copies and tangible embodiments and expressions thereof (in whatever form or medium), all improvements and modifications thereto, and derivative works thereof.

“Inventory” means all inventory wherever located, including raw materials, greige goods, greige goods delivered to third party for toll processing, work-in-process, finished goods, spare parts, goods-in-transit, products under research and development, demonstration equipment, and inventory on consignment.

“IRS” means the Internal Revenue Service.

“Knowledge of Sellers” or “Sellers’ Knowledge” means (a) actual knowledge of a Stockholder after due inquiry or (b) knowledge that would be expected to be obtained by a Stockholder after a reasonably comprehensive investigation of the matter at issue, which investigation shall include, but not be limited to, (i) review of the relevant Sections of this Agreement and, if applicable, corresponding Schedule, (ii) review of the files and other documents and information in the possession or control of Marquis, (iii) making reasonable inquiry of the managers, officers, and employees of Marquis who would reasonably be expected to have knowledge of the particular subject matter, (iv) making due and appropriate inquiry of counsel to Marquis with respect to matters involving questions of law, and (v) otherwise conducting a reasonable investigation regarding the matter in question.

“Law” means any federal, state, local, foreign, or other law, statute, ordinance, regulation, rule, regulatory or administrative guidance, Order, constitution, treaty, principle of common law, or other restriction of any Governmental Body.

“Liability” means any liability, obligation, or commitment of any kind or nature, whether liquidated or unliquidated, due or to become due, asserted or unasserted, known or unknown, absolute or contingent, accrued or unaccrued, matured or unmatured, or otherwise.

“License” means a Contract under which Marquis is authorized to use the Intellectual Property of any Person.

“Losses” means losses, damages, liabilities, deficiencies, Proceedings, judgments, interest, awards, penalties, fines, costs, or expenses of whatever kind, including reasonable attorneys’ fees and the cost of enforcing any right to indemnification hereunder and the cost of pursuing any insurance providers.

“Marquis” means the Company, AOI, Astro, Constellation, and SF Commercial, individually, interchangeably, and in the aggregate.

“Marquis’ Deposit Accounts” means those deposit accounts identified in Schedule 4.13.06.

“Marquis’ Factor Accounts” means those matured funds accounts available at the factors pursuant to the factoring contracts between Marquis and its factors and identified in Schedule 4.13.07.

“Material Adverse Effect” means any event, occurrence, fact, condition, or change that is, or could reasonably be expected to become, individually or in the aggregate, materially adverse to (a) the Business, results of operations, properties, prospects, assets, liabilities, or condition (financial or otherwise) of Marquis or (b) the ability of Sellers to consummate the Transactions on a timely basis.

“May 30 Balance Sheet” means the consolidated balance sheet of Marquis as of May 30, 2015 (without giving effect to the Transactions), prepared according to GAAP and on a basis consistent with the historical accounting policies, methodologies, practices, and assumptions applied by Marquis, provided such historical policies, methodologies, practices, and assumptions are in accordance with GAAP.

“May 30 Net Asset Value” means all assets (excluding goodwill) less current and long-term liabilities of Marquis (but shall only include the Closing Debt Amount to the extent such amount is not paid from the Purchase Price at Closing pursuant to Section 2.06.02(d)), each as shown on the May 30 Balance Sheet; *provided, however*, that the determination of the May 30 Net Asset Value shall exclude the following as of May 30, 2015: (i) Cash, (ii) Other Non-Operating Assets, and (iii) the book value of the Artisans Property. Subject to the proviso in the immediately preceding sentence, the May 30 Net Asset Value shall be prepared in accordance with GAAP, and on a basis consistent with the historical accounting policies, methodologies, practices, and assumptions applied by Marquis, provided such historical policies, methodologies, practices, and assumptions are in accordance with GAAP. An example of the methodology to be used to calculate the May 30 Net Asset Value is set forth on Schedule 1A.

“Member Interests” means the initial Member Interests to be issued to the Stockholders pursuant to the Operating Agreement.

“Operating Agreement” means the Operating Agreement of Purchaser, substantially in the form attached as Exhibit F.

“Order” means any order, award, decision, injunction, judgment, ruling, decree, charge, writ, subpoena or verdict entered, issued, made, or rendered by any Governmental Body or arbitrator.

“Organizational Documents” means (a) the certificate or articles of incorporation, formation, or organization, (b) the bylaws, operating agreement, or limited liability company agreement, (c) any documents comparable to those described in clauses (a) and (b) as may be applicable pursuant to any Law, and (d) any amendment or modification to any of the foregoing.

“Other Non-Operating Assets” means the life insurance policies owned by Marquis on the Stockholders, the 2013 Lexus 460 driven by Bailey and 2014 Yukon driven by Stokes, related party receivables, and employee receivables, in each case in the amounts shown on Schedule 1B hereto, which Schedule shall be updated as of the Closing Date.

“Parties” means Live, Purchaser, and the Sellers.

“Permit” means any permit, license or Consent issued by, or required to be obtained from, any Governmental Body or pursuant to any Law.

“Permitted Encumbrance” means (a) any mechanic’s, materialmen’s, or similar statutory lien incurred in the ordinary course of business consistent with past practice for monies not yet due and that is not, individually or in the aggregate, material to the Business, (b) any lien securing the Closing Debt Amount that will be released prior to or as of the Closing; (c) any lien against Marquis’ Factor Accounts incurred in the ordinary course of business; (d) restrictions on use of the Intellectual Property under the Licenses; (e) any lien for Taxes not yet due; and (f) any recorded easement, covenant, or other restriction on the Real Property described in any Title Commitment that does not materially interfere with the present use of any Real Property or with the operation of the Business.

“Person” means an individual, corporation, partnership, joint venture, limited liability company, Governmental Body, unincorporated organization, trust, association, or other entity.

“Post-Closing Tax Period” means any taxable period beginning at or after the Effective Time and, with respect to any taxable period beginning before and ending after the Effective Time, the portion of such taxable period beginning at the Effective Time.

“Pre-Closing Taxes” means Taxes of Marquis for any Pre-Closing Tax Period.

“Pre-Closing Tax Period” means any taxable period ending before the Effective Time and, with respect to any taxable period beginning before and ending after the Effective Time, the portion of such taxable period ending before the Effective Time.

“Proceeding” means any proceeding, charge, complaint, claim, demand, notice, action, suit, litigation, hearing, audit, summons, subpoena, investigation, inquiry, arbitration, or mediation of any nature (in each case, whether civil, criminal, administrative, investigative, or informal).

“Real Property” means the real property owned or leased by the Company or any of its Subsidiaries, together with all buildings, structures, and other improvements thereon (including all easements, rights-of-way, tenements, hereditaments, appurtenances, fixtures, and other real property rights appertaining thereto).

“Release” means any intentional or unintentional release, discharge, spill, leaking, pumping, pouring, emitting, emptying, discharge, injection, leaching, abandonment, disposal, escape, dumping or migration into or through the environment (including ambient air, surface water, groundwater, land surface, or subsurface strata or within any building, structure, facility, or fixture) of a Hazardous Substance.

“Representative” means, with respect to any Person, any and all directors, officers, employees, consultants, financial advisors, counsel, accountants, and other agents of such Person.

“SF Commercial” means SF Commercial Properties, LLC, a Georgia limited liability company and majority-owned subsidiary of the Company as of the date hereof.

“Stock” and “Stock Ownership” means all the issued and outstanding common no par value capital stock of the Company owned by the Stockholders and identified in Schedule 4.02.

“Subsidiaries” means, in the aggregate, AOI, Astro, Constellation, and SF Commercial Properties, LLC.

“Tax” means any federal, state, local, foreign or other income, gross receipts, license, payroll, employment, excise, severance, stamp, occupation, premium, windfall profits, environmental (including taxes under Code § 59A), customs duties, capital stock, franchise, profits, withholding, social security (or similar), unemployment, disability, real property, personal property, sales, use, transfer, registration, value added, general service, alternative, or add-on minimum, estimated, or other tax of any kind whatsoever, however denominated, and will include any interest, penalty, or addition thereto, whether disputed or not.

“Tax Benefit” means, with respect to a taxable period, the excess, if any, of (a) the Purchaser Indemnitees’ cumulative liability for Taxes through the end of such taxable period, calculated by excluding any Tax items attributable to a Loss from all taxable periods, less (b) the Purchaser Indemnitees’ actual cumulative liability for Taxes through the end of such taxable period, calculated by taking into account any Tax items attributable to the Loss for all taxable periods, taking into account an appropriate measure of the time value of money.

“Tax Returns” means any return, declaration, report, claim for refund, information return, or statement or other document relating to Taxes, including any schedule or attachment thereto, and including any amendment thereof.

“Transaction Documents” means this Agreement, the Operating Agreement, the Artisans Lease, the Employment Agreements, and all other written agreements, documents, and certificates required to be executed and delivered by any of the Parties at Closing.

“Transactions” means the transactions contemplated by the Transaction Documents.

1.02 Cross-References.

The following terms have the respective meanings set forth in the Sections referenced below:

Defined Term	Location of Definition
"AAA"	§ 14.08
"Accounting Firm"	§ 2.05(a)
"Acquisition Proposal"	§ 6.07
"Agreement"	Preamble
"Appellate Rules"	§ 14.08
"Arbitration Rules"	§ 14.08
"Audited Financials"	§ 8.11
"Bailey"	Preamble
"Base Purchase Price"	§ 2.02
"Benefit Plan"	§ 4.21.01
"Closing"	§ 2.06.01
"Closing Date"	§ 2.06.01
"Company"	Preamble
"Compete"	§ 8.10.01
"Competitor"	§ 8.10.01
"Customer"	§ 8.10.01
"Demand"	§ 14.08
"Dispute"	§ 14.08
"Dispute Notice"	§ 2.05(a)
"Disputing Party"	§ 14.08
"Effective Time"	§ 2.06.01
"FHL Amount"	§ 2.06.02(a)
"Final Closing Date Net Asset Value"	§ 2.05(b)
"Financing"	§ 7.01
"FS Provisions"	§ 14.03
"Heckman"	Preamble
"Indemnified Party."	§ 10.05
"Interim Balance Sheet"	§ 4.05(a)
"Interim Balance Sheet Date"	§ 4.05(a)
"Live"	Preamble
"Live Contribution Amount"	Recitals
"Material Contracts"	§ 4.13.08
"Material Customers"	§ 4.26.01
"Material Suppliers"	§ 4.26.02
"Multiemployer Plan"	§ 4.21.03
"Preliminary Report"	§ 2.03(a)
"Purchase Price"	§ 2.02
"Purchaser"	Preamble
"Purchaser Indemnitees"	§ 10
"Purchaser's Certificate"	§ 12.02.01(c)
"Purchaser's Report"	§ 2.05(a)
"Qualified Benefit Plan"	§ 4.21.03
"Restricted Area"	§ 8.10.01
"Restricted Business"	§ 8.10.01
"Restriction Period"	§ 8.10.01
"Rowland"	Preamble
"Seller" and "Sellers"	Preamble
"Stockholder" and "Stockholders"	Preamble
"Stockholders' Certificate"	§ 12.01.02(c)
"Stockholders' Contribution Amount"	Recitals
"Stockholder Releases"	12.01.06
"Stockholders' Representative"	Preamble
"Stokes"	Preamble
"Straddle Period"	§ 8.05.06
"Surveys"	§ 8.06
"Tax Claim"	§ 8.05.05
"Third-Party Claim"	§ 10.05.01
"Title Commitments"	§ 8.06
"Union"	§ 4.20.04

2. Purchase and Sale.

2.01 Purchase and Sale.

Subject to the terms and conditions set forth herein, at the Closing, the Stockholders shall sell to Purchaser, and Purchaser shall purchase from the Stockholders, the Stock, free and clear of all Encumbrances, for the Purchase Price specified in Section 2.02.

2.02 Purchase Price.

In consideration for the sale of Stock in accordance with Section 2.01, at the Closing, Purchaser shall pay to the Stockholders, proportionately in accordance with their Stock Ownership, an aggregate purchase price equal to the sum of (i) the May 30 Net Asset Value *plus* (ii) \$213,000 (together, the "Base Purchase Price"), as adjusted pursuant to Section 2.05 (the Base Purchase Price as so adjusted, the "Purchase Price").

2.03 May 30 Net Asset Value.

- (a) At least five (5) Business Days prior to the Closing Date, the Sellers shall deliver to Purchaser statements (collectively, the "Preliminary Report"), together with reasonable supporting documentation, showing in reasonable detail Sellers' good faith calculation of: (i) the May 30 Balance Sheet and (ii) the May 30 Net Asset Value.
- (b) Sellers shall provide Purchaser, Live, and their respective Affiliates and Representatives with reasonable access to the books and records, and appropriate personnel and Representatives, of Marquis in connection with the review of the Preliminary Report by Purchaser, Live, and their respective Affiliates and Representatives. The Parties shall negotiate in good faith to resolve any dispute related to the calculation of the May 30 Net Asset Value within five (5) Business Days of Purchaser's receipt of the Preliminary Report and, to the extent applicable, the May 30 Net Asset Value shall be adjusted to reflect any changes mutually agreed to by the Parties; *provided, however*, that if the Parties are unable to reach agreement within such five (5) Business Day period with respect to any such dispute, the Parties shall nevertheless proceed to the Closing and the Base Purchase Price shall be based upon the Preliminary Report as delivered by Sellers (or as adjusted with respect to any items resolved in accordance with this sentence), in each case subject to Section 2.05 without prejudice and to the other terms and conditions set forth herein.

2.04 [Omitted].

2.05 Post-Closing Purchase Price Adjustment.

- (a) Within 60 days after the Closing Date, Purchaser shall deliver to the Stockholders' Representative statements (collectively, the "Purchaser's Report"), together with reasonable supporting documentation, showing in reasonable detail Purchaser's good faith calculation of: (i) the Closing Date Balance Sheet and (ii) the Closing Date Net Asset Value. To the extent that the Closing Date Balance Sheet reflects that there is Cash on the Closing Date Balance Sheet, that Cash shall be added to the Closing Date Net Asset Value. To the extent that the Closing Date Balance Sheet reflects a Cash deficit, that Cash deficit shall be subtracted from the Closing Date Net Asset Value. Purchaser shall engage an independent accounting firm with experience in the carpet production or manufacturing industry that is mutually acceptable to Purchaser and the Stockholders' Representative (or if the parties are unable to agree upon a firm, each party shall select a firm and the two firms together shall select a third firm) to prepare the Closing Date Balance Sheet and calculate the Closing Net Asset Value for the Purchaser's Report. Purchaser shall provide the Stockholders' Representative and his Representatives with reasonable access to the books and records, and appropriate personnel and Representatives, of Marquis in connection with the Stockholders' Representative's review of the Purchaser's Report. If the Stockholders' Representative disputes any item set forth in the Purchaser's Report, then the Stockholders' Representative may, within thirty (30) days after receipt of the Purchaser's Report, provide to Purchaser a written statement of such disputes specifying those items or amounts as to which the Stockholders' Representative disagrees (such written statement, a "Dispute Notice"). If the Stockholders' Representative fails to deliver a Dispute Notice within such thirty (30)-day period, then the Purchaser's Report shall be final and binding for purposes of this Section 2.05. If the Stockholders' Representative delivers a Dispute Notice within such thirty (30)-day period, Purchaser and the Stockholders' Representative shall use good faith efforts jointly to resolve such disputes within thirty (30) days after Purchaser's receipt of the Dispute Notice, which resolution, if achieved with respect to any or all such disputed items, shall be deemed final, conclusive, and binding upon the Parties and not subject to further dispute or judicial review. To the extent Purchaser and the Stockholders' Representative cannot resolve such disputes to their mutual satisfaction within such thirty (30)-day period, Purchaser and the Stockholders' Representative shall, within five (5) business days thereafter, jointly engage Gilbert Crump & Associates or, if such firm is unable to serve in such capacity, an independent public accounting firm selected by Purchaser and the Stockholders' Representative (the "Accounting Firm") to review the Purchaser's Report, together with the Dispute Notice and any other relevant documents. The scope of disputes to be resolved by the Accounting Firm shall be limited to whether the items in dispute that were included in the Dispute Notice were prepared in accordance with this Agreement and Schedule 1A, and the Accounting Firm shall determine, on such basis, to what extent the Closing Date Net Asset Value set forth in the Purchaser's Report require(s) adjustment. The Accounting Firm's decisions shall be based solely on presentations by Purchaser and the Stockholders' Representative and their respective Representatives, and not by independent review, and the Accounting Firm shall only address those issues set forth in the Dispute Notice. In resolving any disputed item, in no event shall the Accounting Firm's determination be higher or lower than the respective amounts therefor proposed by Purchaser and the Stockholders' Representative. The determination of the Accounting Firm shall be accompanied by a certificate of the Accounting Firm that its determination was prepared in accordance with this Agreement with respect to such dispute. Purchaser and the Stockholders' Representative shall request that the Accounting Firm report its conclusions as to such disputes and its determination of the Closing Date Net Asset Value based thereon pursuant to this Section 2.05 no later than thirty (30) days after it is engaged, which determination shall be final, conclusive, and binding on all Parties and not subject to further dispute or judicial review. The costs, fees, and expenses of the Accounting Firm (including any indemnity obligations to the Accounting Firm) shall be allocated between Purchaser and the Stockholders based on their relative success with respect to the disputed items (as finally determined by the Accounting Firm). For example, if the Stockholders' Representative challenges the calculation of the Closing Date Net Asset Value by an amount of \$100,000, but the Accounting Firm determines that the Stockholders' Representative has a valid claim for only \$40,000, Purchaser shall bear forty percent (40%) of the fees and expenses of the Accounting Firm and the Stockholders shall bear the other sixty percent (60%) of such fees and expenses.
- (b) As used herein, the "Final Closing Date Net Asset Value" means the Closing Date Net Asset Value as finally determined in accordance with Section 2.05(a). If the Final Closing Date Net Asset Value is less than the May 30 Net Asset Value, then the Stockholders, jointly and severally, shall pay to Purchaser the amount of such shortfall. If the Final Closing Date Net Asset Value is greater than the May 30 Net Asset Value, then Purchaser shall pay to Stockholders, proportionately based on their Stock Ownership, the amount of such excess. Any payment pursuant to this Section 2.05(b) shall be made by wire transfer of immediately available funds to an account designated by the Party receiving payment within five (5) Business Days after the final determination the Final Closing Date Net Asset Value.

2.06 Closing.

2.06.01 Closing.

Subject to the terms and conditions of this Agreement, the purchase and sale of the Stock contemplated hereby shall take place at a closing (the "Closing") to be effective at 12:01 a.m., Eastern Daylight Time, on the Closing Date (the "Effective Time"), which shall take place on the date hereof, at the offices of Edward Hine, Jr., P.C., Suite 300, 111 Bridgepoint Plaza, Rome, GA 30161 or on such other date as the Stockholders' Representative and Purchaser may mutually agree upon in writing (the day on which the Closing takes place being the "Closing Date"). The Parties may participate in the Closing remotely by use of telephone, e-mail, and facsimile transmission.

2.06.02 Purchaser's Closing Deliveries.

Subject to satisfaction or waiver of the conditions set forth in Section 12.01, at the Closing, Purchaser shall:

- (a) pay to the Stockholders, proportionately based on their Stock Ownership, the Base Purchase Price, as determined pursuant to Section 2.03, in immediately available funds, less the sum of (i) the Closing Debt Amount, (ii) the Stockholders' Contribution Amount, and (iii) the aggregate amount of the investment banking or broker fees and expenses payable by Marquis or the Stockholders to FHL Capital Corporation in connection with the Transactions (the "FHL Amount");
- (b) [Omitted];
- (c) [Omitted];
- (d) pay to the applicable third parties, on behalf of Marquis, in immediately available funds, by wire transfer to the accounts designated in writing by such third parties, the Closing Debt Amount and the FHL Amount; and
- (e) deliver to the Stockholders' Representative the Purchaser's Certificate and the documents contemplated by Section 12.02.03 and Section 12.02.04.

2.06.03 Sellers' Closing Deliveries.

Subject to satisfaction or waiver of the conditions set forth in Section 12.02, at the Closing, Sellers shall deliver to Purchaser the following:

- (a) the Stockholders' Certificate and the documents contemplated by Section 12.01.05, Section 12.01.06, Section 12.01.08, and Section 12.01.11; and
- (b) a certificate of a duly authorized officer of the Company certifying the Closing Debt Amount and the FHL Amount and specifying to which third parties such Closing Debt Amount and FHL Amount are payable (accompanied by payoff letters or similar documentation from the creditors to whom all or a portion of such Closing Debt Amount is owed that include payment instructions and include the full and final release of any and all Encumbrances relating to such Closing Debt Amount on the assets of Marquis following receipt of the amount set forth in such payoff letters). The Company shall deliver to Purchaser in writing at least five (5) Business Days prior to the expected Closing Date the Company's estimate of each of the Closing Debt Amount and the FHL Amount.

2.06.04 Capital Contributions.

Subject to satisfaction or waiver of the conditions set forth in Section 12.01, at the Closing, Live shall pay in immediately available funds to Purchaser (i) the Live Contribution Amount, which shall be credited as a contribution of capital by Live to Purchaser in exchange for eighty percent (80%) of the equity interests in Purchaser, and (ii) the Stockholders' Contribution Amount, which shall be credited as contributions of capital by the Stockholders to Purchaser in exchange for twenty percent (20%) of the equity interests in Purchaser in the allocated percentages set forth in the Operating Agreement.

3. Distributions and Artisan Property Transactions.

3.01 Distributions by Marquis and SF Commercial to Stockholders on or as of the Closing Date.

On or before the Closing Date, Marquis may distribute all Cash and shall distribute the Other Non-Operating Assets to the Stockholders proportionate to their Stock Ownership. After the Closing Date, Purchaser and the Company shall allow Stockholders to review all remittances received by the Company or posted to the Marquis Factor Accounts after Closing that were postmarked before Closing and the Company shall pay those post-Closing remittances that were that were postmarked before Closing to Stockholders in proportion to their Stock Ownership within five (5) Business Days of receipt.

3.02 Artisans Transactions.

Prior to or at the Closing, the Company shall have caused the following transactions to be effected, on terms reasonably acceptable to Purchaser: (a) the Company shall have caused the formation of Artisans Lessor, initially a wholly owned subsidiary of Constellation, (b) Constellation shall have contributed to Artisans Lessor all of Constellation's right, title, and interest in and to the Artisans Property, and (c) following such contribution, successively, (i) Constellation shall have distributed to the Company all of the equity interests in Artisans Lessor held by Constellation and (ii) the Company shall have distributed all of such equity interests to the Stockholders. The Parties acknowledge and agree that, upon consummation of the foregoing transactions, none of the Company, any of its Subsidiaries, or the Purchaser shall (A) own or hold any equity interest or investment, directly or indirectly, in Artisans Lessor, (B) own or hold any right, title, or interest in the Artisans Property other than the rights and interests of Constellation under the Artisans Lease, or (C) have any Liabilities associated with Artisans Lessor or the Artisans Property other than those of Constellation expressly set forth in the Artisans Lease. The Parties agree that, solely for purposes of the representations set forth in Section 4.19.02, the second sentence of Section 4.19.03, and 4.19.07, the "Real Property" referenced therein shall not include the Artisans Property.

4. Representations and Warranties of Sellers.

Sellers, jointly and severally, represent and warrant to Live and Purchaser as follows (with the references to "Marquis" in this Section 4 deemed to refer to the Company and its Subsidiaries, individually, interchangeably, and in the aggregate, as the context requires and irrespective of verb tense):

4.01 Organization and Qualification.

Schedule 4.01 sets forth the jurisdiction of organization of Marquis and the other jurisdictions in which Marquis is qualified to do business, along with the officers and directors of Marquis. Marquis is duly licensed or qualified to do business and is in good standing in each jurisdiction in which the properties owned or leased by it or the operation of its business as currently conducted makes such licensing or qualification necessary. The Company and its Subsidiaries are, respectively, a corporation and limited liability companies duly organized, validly existing, and in good standing under the laws of their respective jurisdictions of organization, with full corporate or limited liability company power and authority to conduct the Business, as it has been and is now being conducted, to own or use the properties and assets that they respectively purport to own or use and to perform all their respective obligations necessary to the operation of the Business. Marquis has delivered or made available to Purchaser correct and complete copies of its Organizational Documents. The minute books and ownership records of the Marquis, as delivered or made available to Purchaser, are correct and complete.

4.02 Capitalization.

Schedule 4.02 sets forth the authorized capital of the Company, the number of shares of Stock that are issued and outstanding, and the number of shares of Stock held by each Stockholder. There are no outstanding shares of capital stock of the Company other than the shares of Stock. All of the shares of Stock have been duly authorized and validly issued, are fully paid and nonassessable, are owned of record and beneficially by the Stockholders, free and clear of all Encumbrances, and were issued in compliance with all applicable federal and state securities laws. The Company has no treasury stock. There are no outstanding options, warrants, rights (including conversion or preemptive rights and rights of first refusal or similar rights), or agreements, arrangements, or understandings, orally or in writing, to purchase or acquire any shares of the capital stock of the Company or any equity interest in any of its Subsidiaries or any securities convertible into, exercisable for, or exchangeable for shares of capital stock of the Company or any equity interest in any of its Subsidiaries or other rights, agreements, arrangements, or commitments of any character relating to the capital stock of the Company or any equity interest in any of its Subsidiaries or obligating any Stockholder, the Company, or any Subsidiary thereof to issue or sell any shares of capital stock of, or any other equity interest in, the Company or any of its Subsidiaries. None of the shares of Stock was issued in violation of any Contract, arrangement, or commitment to which the Company or any Stockholder then was a party or then was subject to or in violation of any preemptive or similar rights of any Person. Except for the Stockholders' Agreement disclosed on Schedule 4.02, there are no voting trusts, stockholder agreements, proxies, or other Contracts or understandings in effect with respect to the voting or transfer of any of shares of Stock. The Company owns all of the equity interests in AOI, Astro, and Constellation, in each case free and clear of all Encumbrances. The Company currently owns ninety percent (90%) of the equity interests in SF Commercial, free and clear of all Encumbrances. As of the Closing Date, the Company shall own all the equity interests in SF Commercial, free and clear of all Encumbrances. Upon consummation of the transactions contemplated by this Agreement, Purchaser shall own all of the Stock and the Company shall own all of the equity interests in each Subsidiary, in each case free and clear of all Encumbrances.

4.03 Authority.

Each Seller has full power, capacity, and authority to execute and deliver this Agreement and the other Transaction Documents to which it or he is a party, to perform its or his obligations hereunder and thereunder and to consummate the transactions contemplated hereby and thereby. Each Seller's execution and delivery of this Agreement and the other Transaction Documents to which it or he is a party, such Seller's performance of its or his obligations hereunder and thereunder, and such Seller's consummation of the transactions contemplated hereby and thereby have been duly authorized by all requisite action of such Seller. This Agreement has been duly executed and delivered by each Seller, and constitutes a legal, valid, and binding obligation of each Seller enforceable against such Seller in accordance with its terms. When each other Transaction Document to any Seller is or will be a party has been duly executed and delivered by such Seller, such Transaction Document will constitute the valid and legally binding obligations of such Seller, enforceable against such Seller in accordance with the terms of such Transaction Document.

4.04 No Conflicts.

The execution, delivery and performance by each Seller of this Agreement and other the Transaction Documents to which such Seller is a party, and the consummation of the Transactions, do not and will not, directly or indirectly, with or without notice or lapse of time: (a) violate any Law to which any Seller is subject; (b) violate any Permit held by Marquis or give any Governmental Body the right to terminate, revoke, suspend or modify any Permit held by Marquis; (c) violate any Organizational Document of Marquis or any resolution adopted by its board of directors or the Stockholders; (d) violate, conflict with, result in a breach of, constitute a default under, result in the acceleration of or give any Person the right to accelerate the maturity or performance of, or to cancel, terminate, modify or exercise any remedy under, any Contract to which any Seller is a party or by which any Seller is bound; (e) cause Purchaser to have any Liability for any Tax; (f) result in the creation or imposition of any Encumbrance upon any of Marquis' properties or assets; or (g) result in any Stockholder having the right to exercise dissenters' appraisal rights. Except as set forth on Schedule 4.04, Sellers are not required to notify, make any filing with, or obtain any Consent of any Person in connection with the execution and delivery of this Agreement and the other Transaction Documents or in order to consummate the Transactions.

4.05 Financial Statements.

(a) Marquis has delivered complete copies of the (i) annual consolidated balance sheets of Marquis for each of the years ending January 2, 2010, January 1, 2011, December 29, 2012, December 28, 2013, and January 3, 2015, and statements of income, shareholders' equity and cash flow for each of the years then ended and (ii) unaudited consolidated interim balance sheet of Marquis as of May 30, 2015 (the "Interim Balance Sheet," and the date thereof, the "Interim Balance Sheet Date"), and statements of income for the five (5) month-period then ended, which Financial Statements are included in Schedule 4.05. The Financial Statements have been prepared in accordance with GAAP applied on a consistent basis throughout the periods covered thereby and present fairly the assets and liabilities of Marquis as of their respective dates and the results of operations for the respective periods covered thereby. The Books and Records are sufficient such that the Financial Statements can be audited without a scope limitation, by an independent certified public accounting firm that is registered under the Public Company Accounting Oversight Board, which audited Financial Statements can be included in the Current Report on Form 8-K of an Affiliate of Purchaser to be filed after the Closing that describes the Transactions and thereafter can be consolidated into such Affiliate's periodic reports to be filed under the Exchange Act. Marquis maintains a standard system of accounting established and administered in accordance with GAAP.

(b) The Books and Records of Marquis, all of which have been made available to Purchaser, (i) are complete and correct in all material respects and all transactions to which it is or has been a party are accurately reflected therein in all material respects on an accrual basis, (ii) reflect all discounts, returns and allowances granted by Marquis with respect to the periods covered thereby, (iii) have been maintained in accordance with customary and sound business practices in Marquis' industry, (iv) form the basis for the Financial Statements, and (v) reflect in all material respects the assets, liabilities, financial position, results of operations, and cash flows of Marquis on an accrual basis. All computer-generated reports and other computer output included in the Books and Records are complete and correct in all material respects and were prepared in accordance with sound business practices based upon authentic data. Marquis' management information systems are adequate for the preservation of relevant information and the preparation of accurate reports.

4.06 Absence of Certain Changes.

Except as set forth in Schedule 4.06, since January 3, 2015:

(a) Marquis has not (i) sold, leased, transferred or assigned any asset, other than for fair consideration and in the ordinary course of business consistent with past practice; *provided, however*, that no asset shown on the consolidated balance sheet of Marquis for the year ending January 3, 2015 included in the Financial Statements has been sold, leased, transferred, or assigned other than (A) sales of Inventory in the ordinary course of business consistent with past practice and (B) the transfer of the Artisans Property to Artisans Lessor as contemplated in Section 3.02, (ii) purchased, leased, or acquired the right to own, use, or lease any property or assets, except for purchases of inventory or supplies in the ordinary course of business consistent with past practice, or (iii) except for the redemption or purchase of the minority interest in SF Commercial before the Closing, acquired by merger or consolidation with, or by purchase of a substantial portion of the assets or stock of, or by any other manner, any business or any Person or any division thereof;

(b) Marquis has not experienced any damage, destruction, or loss (whether or not covered by insurance) to its property or assets, individually or in the aggregate, in excess of One Hundred Thousand (\$100,000) Dollars;

(c) No Encumbrance (other than any Permitted Encumbrance) has been imposed upon any asset, property, or securities of Marquis (including the shares of Stock);

(d) Marquis has not made any loan to, guaranteed the debt of, or invested in, any other Person or joint venture;

(e) Marquis has not borrowed any money or incurred any Debt except for advances under its asset based lending facility with Synovus Bank in the ordinary course of business consistent with past practice. Marquis has not delayed or postponed the payment of accounts payable or any periodic payment due under any Debt instrument;

(f) Except for trade claims settled in the ordinary course of business consistent with past practice, Marquis has not has canceled, compromised, waived, or released any right or claim (or series of related rights or claims) owed to it;

(g) Marquis has not (i) issued, sold, or otherwise disposed of any of its securities other than the disposal of equity interests in Artisans Lessor contemplated by Section 3.02, (ii) granted any options, warrants, or other rights to acquire (including upon conversion, exchange, or exercise) any of its securities, (iii) split, combined, or reclassified of any its securities, (iv) declared or paid any dividends or distributions on or in respect of any of its securities, except for (A) distributions to Stockholders to allow the Stockholders to pay their Taxes and other distributions, all of which are reflected in the Financial Statements and (B) the distributions of the equity interests in Artisans Lessor contemplated by Section 3.02, or (v) except for the redemption of the minority interest in SF Commercial before the Closing, redeemed, purchased, or acquired any of its securities;

(h) Marquis has not (i) conducted the Business outside the ordinary course of business consistent with past practices, (ii) made any loan to (or forgiven any loan to), or entered into any other transaction with, any of the Stockholders or current or former directors, officers, or employees except as reflected in the Other Non-Operating Assets, (iii) entered into any employment contract or modified the terms of any existing employment contract, except for employment agreements for sales personnel entered into in the ordinary course of business consistent with past practice and, if in effect, attached to Schedule 4.20.01, (iv) granted any severance, pension, bonus, whether monetary or otherwise, or increase in the base compensation, in respect of any of its current or former directors or officers, except as disclosed in Schedule 4.20.01, (v) adopted, amended, modified, or terminated any Benefit Plan or other Contract for the benefit of any of its current or former directors, officers, employees, independent contractors, or consultants, (vi) entered into any Contract that would constitute a Material Contract, (vii) accelerated, terminated, materially modified, or cancelled any material Contract to which Marquis is a party or by which it is bound, (viii) made any capital expenditures other than those made in the ordinary course of business consistent with past practice, (ix) entered into a new line of business or abandoned or discontinued any existing lines of business, (x) adopted any plan of merger, consolidation, reorganization, liquidation, or dissolution or filed a petition in bankruptcy under any provisions of federal or state bankruptcy law or consented to the filing of any bankruptcy petition against it under any similar law;

(i) Marquis has not (i) made a material change in its accounting methods or practices or departed from GAAP, (ii) made a material change in its cash management practices and its policies, practices, and procedures with respect to collection of accounts receivable, establishment of reserves for uncollectible accounts, accrual of accounts receivable, inventory control, prepayment of expenses, payment of trade accounts payable, accrual of other expenses, deferral of revenue, and acceptance of customer deposits, or (iii) taken any action to make, change, or rescind any Tax election, amended any Tax Return, or taken any position on any Tax Return, or taken any action, omitted to take any action, or entered into any other transaction that would have the effect of increasing the Tax liability or reducing any Tax asset of Purchaser or any of its Affiliates in respect of any Post-Closing Tax Period;

(j) Except for worker's compensation claims that are covered by insurance and garnishments of employee wages and the Proceedings disclosed in Schedule 4.17, there have not been any Proceedings commenced nor, to the Knowledge of Sellers, threatened or anticipated relating to or affecting the Business or any property or asset owned or used by Marquis;

(k) There has not been (i) any material loss of any distribution channel, sales location, other customer, or other supplier, or source of supply of Inventory, utilities, or contract services or the receipt of any oral or written notice that such a loss may be pending or that there may be a material change in the relationship between Marquis and any of the foregoing, (ii) any occurrence, event, or incident related to Marquis outside of the ordinary course of business consistent with past practice, (iii) any Material Adverse Effect, or (iv) any amendment of the Organizational Documents of Marquis; and

(l) Marquis has not agreed or committed to any of the foregoing, except for the purchase of the minority interest in SF Commercial not owned by Marquis.

4.07 No Undisclosed Liabilities.

Except as set forth in the Interim Balance Sheet included in the Financial Statements, Marquis has no Liabilities (and no basis exists for any Liability), except for current liabilities incurred in the ordinary course of business consistent with past practice since the Interim Balance Sheet Date (none of which results from, arises out of, relates to, is in the nature of, or was caused by any tort, infringement, or violation of Law) and which are not, individually or in the aggregate, material in amount.

4.08 Title to and Sufficiency of Tangible and Intangible Assets.

Marquis has good and marketable title to, or a valid leasehold interest in, the tangible and intangible assets used or held for use in the operation of the Business, free and clear of any Encumbrances except Permitted Encumbrances. The tangible and intangible assets used or held for use in the operation of the Business (excluding the Other Non-Operating Assets) are adequate for the continued conduct of the Business after the Closing Date in the same manner as conducted prior to the Closing Date and constitute all of the rights, property, and assets necessary to conduct the Business of the Company as currently conducted.

4.09 Tangible Personal Property; Condition of Purchased Assets.

The buildings, plants, structures, vehicles, and other tangible assets that are owned or leased by Marquis are structurally sound, free from material defects, in good operating condition and repair, and adequate for the uses to which they are being put. None of such buildings, plants, structures, vehicles, or other tangible assets is in need of maintenance or repairs, except for ordinary, routine maintenance and repairs that are not material in nature or cost to such building, plant, structure, vehicle, or other tangible asset. All of the tangible assets owned or leased by Marquis are located on the Real Property except for greige and finished goods Inventory located at toll processors for finishing and dyeing services, yarn Inventory located at toll processors for twisting and heat setting, and rug Inventory located at toll processors for printing.

4.10 Accounts Receivable.

All Accounts Receivable that are reflected on the Interim Balance Sheet or the accounting records of Marquis represent valid obligations arising from products actually sold or services actually performed by Marquis in the ordinary course of business consistent with past practice. The Accounts Receivable are current and collectible in full within the 90-day period immediately following the Closing Date in accordance with their terms. There is no contest, claim, or right to set-off, other than returns, claims, and price and quantities discrepancies arising in the ordinary course of business consistent with past practice and that are not, individually or in the aggregate, material under any Contract with any obligor of an Account Receivable relating to the amount or validity of such Account Receivable. Schedule 4.10 contains a list of all Accounts Receivable as of May 30, 2015 and the aging of each Account Receivable.

4.11 Inventory.

The Inventory consists of a quality and quantity usable for its intended purpose and saleable in the ordinary course of business consistent with past practice, except for slow-moving and obsolete items and items of below-standard quality, all of which have been written off or written down to net realizable value with appropriate reserves on the accounting records and the Financial Statements. All Inventory not written off has been valued at the lower of cost or market value. The quantities of each type of Inventory are reasonable in the present circumstances of Marquis and are not materially more or less than normal Inventory levels necessary to conduct the Business in the ordinary course of business consistent with past practice. Except for greige and finished goods Inventory located at toll processors for finishing and dyeing services, yarn Inventory located at toll processors for twisting and heat setting, and rug Inventory located at toll processors for printing, all of the Inventory is located on the Real Property. Marquis is not in possession of any Inventory not owned by that entity, including goods already sold. All such Inventory is owned by Marquis, free and clear of all Encumbrances, except Permitted Encumbrances.

4.12 Real Property.

4.12.01 Title and Ownership.

The Company and SF Commercial have good and marketable fee simple title to the Real Property other than the Artisans Property, free and clear of any Encumbrances, except Permitted Encumbrances. Prior to the contribution contemplated by Section 3.02, Constellation has good and marketable fee simple title to the Artisans Property, free and clear of any Encumbrances, except Permitted Encumbrances. After consummation of the transactions contemplated by Section 3.02 and entry into the Artisans Lease, Constellation shall have a good and valid leasehold interest in the Artisans Property, free and clear of any Encumbrances, except Permitted Encumbrances. Marquis does not own any real property other than the Real Property. Except for the lease of the Real Property owned by SF Commercial to the Company, a true and complete copy of which lease has been delivered to Purchaser, neither the Company nor SF Commercial lease any of the Real Property to any Person, except as set forth in Schedule 4.12.01. Marquis is not a sublessor or grantor under any sublease or other instrument granting to any other Person any right to the possession, lease, occupancy, or enjoyment of any of the Real Property.

4.12.02 Suitability of Real Property and Compliance with Laws.

The Real Property constitutes all interests in real property currently used or held for use in connection with the Business. The Real Property is not subject to any rights of way, building use restrictions, title exceptions, variances, reservations, or limitations of any kind or nature, except those that individually or in the aggregate do not impair the current use, occupancy, value, or marketability of title to the Real Property. All buildings, plants, structures, and other improvements owned or used by Sellers lie wholly within the boundaries of the Real Property and do not encroach upon the property, or otherwise conflict with the property rights, of any other Person, except as disclosed in the Surveys. The use and operation of the Real Property comply with all Laws, including zoning requirements, covenants, conditions, restrictions, easements, licenses, permits, and Contracts, and no Seller has received any notifications from any Governmental Body or insurance company recommending improvements to the Real Property or any other actions relative to the Real Property. Marquis is not a party to or bound by any Contract (including any option) for the purchase, sale, or lease of any real estate interest not currently in possession of Marquis. No material improvements constituting a part of the Real Property encroach on real property owned or leased by a Person other than the Company or SF Commercial, except as disclosed in the Surveys. There are no Proceedings pending nor, to the Sellers' Knowledge, threatened against or affecting the Real Property or any portion thereof or interest therein.

4.12.03 Real Property Information.

Schedule 4.12.03 lists (i) the street address of each parcel of Real Property and (ii) the current use of such Real Property. With respect to the Real Property, Seller has delivered to Purchaser copies of all title insurance policies, opinions, abstracts, and surveys in the possession of Seller and relating to the Real Property.

4.13 Contracts.

4.13.01 Purchases of Raw Materials, Toll Processing Services, and Sales of Inventory.

Marquis purchases all raw materials by purchase order and without a supply agreement, except for supply agreements for finishing and dyeing services with Global Textile Solutions, LLC, Chem-Tech Industries, Inc., and Textile Coating, Ltd., with true and complete copies of those agreements attached to Schedule 4.13.01. With the exception of sales of Inventory to Menards pursuant to a Vendor Compliance Program Letter, a true and complete copy of which is attached to Schedule 4.13.01, Marquis and its Subsidiaries sell Inventory to customers by purchase order and without a supply agreement.

4.13.02 Leases of Tangible Personal Property.

Marquis leases the tangible personal property identified in Schedule 4.13.02.

4.13.03 Licenses for Intellectual Property.

Attached as Schedule 4.13.03 is a list of all Licenses, with a true and complete copy of each License attached thereto. Marquis has performed all of its obligations under each License, and there are no grounds for termination of any License by virtue of a default on the part of Marquis.

4.13.04 Guaranties.

The Company has guaranteed the obligations of AOI and Constellation, which obligations are part of the Debt and shall be terminated upon payment of the Closing Debt Amount pursuant to Section 2.06.02. Marquis has not guaranteed the obligations of any other Person.

4.13.05 Indemnification Agreements.

Marquis does not have any Contracts that obligate it to indemnify another Person for any Loss or expense for any reason, except for the indemnification provisions contained in its Articles of Incorporation and By-Laws for its officers and directors and the indemnification provisions in favor of Menards pursuant to the Vendor Compliance Program Letter and identified in Schedule 4.13.01.

4.13.06 Marquis' Deposit Accounts.

Marquis has the deposit accounts set forth in Schedule 4.13.06.

4.13.07 Marquis' Factor Contracts.

Marquis is a party to the factoring agreements identified in Schedule 4.13.07. True and complete copies of those factoring agreements have been delivered to Purchaser.

4.13.08 Other Material Contracts.

Schedule 4.13.08 lists each of the following Contracts of Marquis (such Contracts, collectively with all Contracts of Marquis described in the above subsections of this Section 4.13 and the employment agreements attached to Schedule 4.20.01, the "Material Contracts"):

- (i) all Contracts with Material Customers and all Contracts with Material Suppliers;
- (ii) all Contracts that require Marquis to purchase its total requirements of any product or service from a third party or that contain "take or pay" provisions;
- (iii) all Contracts that provide for the assumption of any Tax, environmental, or other Liability of any Person;
- (iv) all Contracts that relate to the acquisition or disposition of any business, a material amount of stock or assets of any other Person, or any real property (whether by merger, sale of stock, sale of assets, or otherwise);
- (v) all broker, distributor, dealer, manufacturer's representative, franchise, agency, sales promotion, market research, marketing consulting, and advertising Contracts to which Marquis is a party;
- (vi) all Contracts with independent contractors or consultants (or similar arrangements) to which Marquis is a party;
- (vii) all Contracts relating to Debt or related to any Encumbrance (except for Permitted Encumbrances) on any of the assets of Marquis;
- (viii) all Contracts with any Governmental Body to which Marquis is a party;
- (ix) all Contracts that limit or purport to limit the ability of Marquis to compete in any line of business or with any Person or in any geographic area or during any period of time;
- (x) all Contracts to which Marquis is a party that provide for any joint venture, partnership, or similar arrangement by Marquis;
- (xi) all Contracts between or among Marquis, on the one hand, and any Stockholder or any Affiliate of any Stockholder, on the other hand; and
- (xiii) any other Contract that is material to Marquis or the Business and not previously disclosed pursuant to this Section 4.13.

4.13.09 Enforceability of Material Contracts; No Breach.

Each Material Contract is valid and binding on the Company and/or the Subsidiary thereof that is a party thereto in accordance with its terms and is in full force and effect. Neither Marquis nor, to Sellers' Knowledge, any other party thereto is in breach of or default under (or is alleged to be in breach of or default under), or has provided or received any notice of any intention to terminate, any Material Contract. No event or circumstance has occurred that, with notice or lapse of time or both, would constitute an event of default under any Material Contract or result in a termination thereof or would cause or permit the acceleration or other changes of any right or obligation or the loss of any benefit thereunder. Complete and correct copies of each Material Contract (including all modifications, amendments, and supplements thereto and waivers thereunder) have been delivered or made available to Purchaser.

4.14 Intellectual Property.

Schedule 4.14 contains a list of all Intellectual Property that is owned by Marquis. With the licensed Intellectual property described in Schedule 4.13.03, Marquis has valid rights to all the Intellectual Property used in, held for use in connection with, necessary for the conduct of, or otherwise material to, the Business. Marquis exclusively owns or has the right to use, pursuant to a license listed in Schedule 4.13.03, all of the Intellectual Property, free from any Encumbrances and free from any requirement of any past, present, or future royalty payments, license fees, charges or other payments, or conditions or restrictions whatsoever. Marquis has not licensed any owned Intellectual Property to a third party. To the Knowledge of Sellers, Marquis has not violated or infringed upon, or otherwise come into conflict with, any Intellectual Property of third parties, and Marquis has not received any notice alleging any such violation, infringement, or other conflict. To the Knowledge of Sellers, no Person has violated, infringed upon, or otherwise come into conflict with any Intellectual Property of Marquis. All registrations for owned Intellectual Property are in good standing, except for common law copyrights for original printed carpet designs, which are not registered. The consummation of the Transactions will not result in the loss or impairment of or payment of any additional amounts with respect to, nor require the consent of any other Person in respect of, Marquis' right to own, use, or hold for use any Intellectual Property as owned, used, or held for use in the conduct of the Business as currently conducted. Marquis has taken all reasonable steps to maintain its owned Intellectual Property and to protect and preserve the confidentiality of all trade secrets included therein. With respect to each website included in the Intellectual Property of Marquis, Marquis has taken commercially reasonable steps to: (i) maintain what it believes are adequate computer resources to help ensure that no service outages will occur due to insufficient data-storage, memory, server response levels, or other related reasons (except outages that are at industry acceptable levels); (ii) protect the confidentiality, integrity, and security of such websites against any unauthorized use, access, interruption, modification, or corruption, as the case may be; and (iii) obtain consent for its acquisition, storage, transfer, and use of personal information as required by applicable Law.

4.15 Taxes.

4.15.01 Tax Returns.

At all times since its organization and through the date preceding the Closing Date, the Company has been a validly electing S corporation within the meaning of Section 1361 of the Code and not subject to federal, state, or local income Tax. Marquis has delivered to Purchaser true, correct, and complete copies of all federal and state income Tax Returns filed by Marquis for all taxable periods ending on or after December 31, 2009. Marquis has made available to Purchaser for inspection all other Tax Returns for all taxable periods ending on or after December 31, 2009. All Tax Returns with respect to Taxes required to be filed by Marquis have been timely filed (giving effect to extensions granted with respect thereto), and all such Tax Returns are true, correct, and complete in all material respects. Marquis has timely paid all Taxes due or claimed to be due from it by any Governmental Body and no deficiency for any Taxes has been proposed, asserted, or assessed against Marquis that has not been resolved and paid in full. Except for Permitted Encumbrances, there are no Encumbrances for Taxes upon any of the assets of Marquis or otherwise relating to the Business. No claim has been made by any taxing authority in any jurisdiction where Marquis does not file Tax Returns that it is, or may be, subject to Tax by that jurisdiction. No extensions or waivers of statutes of limitations have been given or requested with respect to any Taxes of Marquis.

4.15.02 Reserve for Taxes.

Marquis has established adequate reserves in accordance with GAAP for all Taxes not yet due and payable. The amount of Marquis' Liability for unpaid Taxes for all periods ending on or before the Interim Balance Sheet Date does not, in the aggregate, exceed the amount of accruals for Taxes (excluding reserves for deferred Taxes established to reflect the timing differences between book and tax income) reflected on the Interim Balance Sheet. The amount of Marquis' Liability for unpaid Taxes for all periods following May 30, 2015 shall not, in the aggregate, exceed the amount of accruals for Taxes (excluding reserves for deferred Taxes established to reflect the timing differences between book and tax income) as adjusted for the passage of time in accordance with the past custom and practice of Marquis (and which accruals shall not exceed comparable amounts incurred in similar periods in prior years).

4.15.03 Audit.

No audit or other Proceeding by any Governmental Body is presently pending or, to the Knowledge of Sellers, threatened or contemplated with respect to any Taxes or Tax Return of Marquis and Seller has not received written notice of any pending, threatened, or contemplated audits or Proceedings. Marquis' federal and state income Tax Returns have never been audited.

4.15.04 Withholding Taxes.

Marquis has complied with all applicable Laws relating to the payment and withholding of Taxes and has, within the time and the manner prescribed by Law, withheld from employee wages and paid over to the proper Governmental Bodies all amounts required to be so withheld and paid over under applicable Laws. Marquis has withheld and paid each Tax required to have been withheld and paid in connection with amounts paid or owing to any independent contractor, creditor, customer, shareholder, or other party, and complied with all information reporting and backup withholding provisions of applicable Law.

4.15.05 FIRPTA.

No Seller is a "foreign person" as that term is used in Treasury Regulations Section 1.1445-2. Marquis is not, nor has it been, a United States real property holding corporation (as defined in Section 897(c)(2) of the Code) during the applicable period specified in Section 897(c)(1)(a) of the Code.

4.15.06 Other Tax Matters.

Marquis is not a party to, or bound by, any Tax indemnity, Tax sharing, or Tax allocation agreement. No private letter rulings, technical advice memoranda, or similar agreement or rulings have been requested, entered into, or issued by any taxing authority with respect to Marquis. Marquis has not been a member of an affiliated, combined, consolidated, or unitary Tax group for Tax purposes. Marquis has no Liability for Taxes of any Person (other than Marquis) under Treasury Regulations Section 1.1502-6 (or any corresponding provision of state, local, or foreign Law), as transferee or successor, by Contract or otherwise. Marquis will not be required to include any item of income in, or exclude any item or deduction from, taxable income for any taxable period or portion thereof ending after the Closing Date as a result of: (i) any change in a method of accounting under Section 481 of the Code (or any comparable provision of state, local, or foreign Tax Laws), or use of an improper method of accounting, for a taxable period ending on or prior to the Closing Date; (ii) an installment sale or open transaction occurring on or prior to the Closing Date; (iii) a prepaid amount received on or before the Closing Date; (iv) any closing agreement under Section 7121 of the Code, or similar provision of state, local, or foreign Law; or (v) any election under Section 108(i) of the Code. Marquis has not been a "distributing corporation" or a "controlled corporation" in connection with a distribution described in Section 355 of the Code. Marquis is not, and has not been, a party to, or a promoter of, a "reportable transaction" within the meaning of Section 6707A(c)(1) of the Code and Treasury Regulations Section 1.6011-4(b).

4.15.07 Limitation on Tax Representations and Warranties.

Except for (a) the representation and warranty set forth in clause (e) of Section 4.04, (b) the representations and warranties related to Taxes in Section 4.06(i), (c) the representations and warranties related to Taxes in Section 4.20.03, and (d) the representations and warranties related to Taxes in Section 4.21, this Section 4.15 contains the sole representations and warranties of the Sellers with respect to any Tax matters. Other than (i) the representations and warranties set forth in the fifth (5th) sentence set forth in Section 4.15.06 immediately above, (ii) the representation and warranty set forth in clause (e) of Section 4.04, and (iii) the representations and warranties related to Taxes in Section 4.06(i), the representations and warranties in this Section 4.15 may be relied upon only with respect to any Pre-Closing Taxes, and not with respect to any Taxes for any Post-Closing Tax Period. For the avoidance of doubt, nothing in this Section 4.15.07 shall be deemed to limit or modify the Parties' respective covenants and agreements in Section 8.05 with respect to Tax matters.

4.16 Legal Compliance; Permits.

Marquis is, and since such entity's inception, has been, in compliance in all material respects with all applicable Laws and Permits relating to the operation of the Business. No Proceeding is pending, has been filed or commenced, against Marquis alleging any failure to comply with any applicable Law or Permit. No event has occurred or circumstance exists that (with or without notice or lapse of time) may constitute or result in a violation by any Seller of any Law or Permit relating to the Business. No Seller has received any notice or other communication from any Person regarding any actual, alleged, or potential violation by any Marquis of any Law or Permit or any cancellation, termination, or failure to renew any Permit held by Marquis relating to the Business. Marquis has not engaged in any agreement, arrangement, practice, or conduct that amounts to an infringement of Antitrust Law of any jurisdiction in which Marquis conducts business and no director of Marquis is engaged in any activity that would be an offense or infringement under any such Antitrust Law. Marquis is not affected by any existing or pending Orders of any relevant Governmental Body responsible for enforcing the Antitrust Law of any jurisdiction and Marquis has not given any undertakings or commitments to such bodies that affect, or could affect, the conduct of the Business. All Permits required for Marquis to conduct the Business have been obtained by it and are valid and in full force and effect. All fees and charges with respect to such Permits have been paid in full. Marquis holds the Permits identified in Schedule 4.16 that are utilized in the Business, which Schedule includes the respective dates of issuance and expiration. Marquis is in material compliance with the terms of each Permit.

4.17 Litigation; Orders.

Except as set forth on Schedule 4.17, there is no Proceeding pending or, to the Knowledge of Sellers, threatened or anticipated relating to or affecting (a) Marquis, any Stockholder, the Business, or any asset owned or used by it or (b) the Transactions. To the Knowledge of Sellers, no event has occurred or circumstance exists that would reasonably be expected to give rise to or serve as a basis for the commencement of any such Proceeding. There are no outstanding Orders and no unsatisfied judgments, penalties, or awards against or affecting Marquis or any of its properties or assets.

4.18 Product and Service Warranties.

Each product manufactured and/or sold by Marquis has been in conformity with all applicable contractual commitments and all express and implied warranties. While there are warranty claims in the ordinary course of business consistent with past practice for off-quality claims, short rolls, and pricing disputes, those claims, in the aggregate, have not exceeded Seven Hundred Fifty Thousand Dollars (\$750,000) annually. No product manufactured and/or sold by Marquis is subject to any guaranty, warranty, or indemnity beyond the applicable standard terms and conditions of sale, a true and complete copy of the form of which has been made available to Purchaser.

4.19 Environmental Matters.

4.19.01 Compliance with the Environmental Laws.

Sellers have operated and are currently operating the Business in compliance in all material respects with all Environmental Laws and the Environmental Permits and no Seller has received from any Person any Environmental Claim.

4.19.02 No Release.

There have been no Releases of Hazardous Substances on the Real Property (or any real property formerly owned, operated, or leased by Marquis) or in connection with the operation of the Business.

4.19.03 Notices.

No Seller has received any written notice, or, to Knowledge of Sellers, any oral notice, from any Person that any Seller, the Real Property, or the operation of the Business: (i) is in violation of the requirements of any Environmental Laws; (ii) is the subject of Proceeding or Order arising under any Environmental Laws; (iii) has actual or potential Liability under any Environmental Laws; or (iv) in respect of any Environmental Claim. No Seller has received any written notice, or to Knowledge of Sellers, any oral notice, from any Person that any Real Property (or real property formerly owned, operated, or leased in connection with the Business), including soils, groundwater, surface water, buildings, and other structures located on any such real property, has been contaminated with any Hazardous Substances that could reasonably be expected to result in a Proceeding or Environmental Claim under any Environmental Law against, or a violation of any Environmental Law by, Marquis.

4.19.04 No Reporting or Remediation Obligations.

There are no environmental conditions arising out of or relating to Marquis, the Business, or the use, operation, or occupancy of the Real Property that result or reasonably could be expected to result in (i) any obligation of Marquis to file any report or notice, to conduct any investigation, sampling, or monitoring or to effect any environmental cleanup or remediation, whether on-site or offsite or (ii) Liability, either to Governmental Bodies or third parties, for damages (whether to person, property, or natural resources), cleanup costs, or remedial costs of any kind or nature whatsoever. None of the Real Property or any real property formerly owned, operated, or leased by Marquis is listed on, or has been proposed for listing on, the National Priorities List (or CERCLIS) under CERCLA, or any similar state list.

4.19.05 Storage Tanks.

Except as disclosed in Schedule 4.19.05, Marquis does not own or operate any active or abandoned aboveground or underground storage tanks.

4.19.06 Facilities.

Schedule 4.19.06 contains a complete and accurate list of all off-site Hazardous Substances treatment, storage, or disposal facilities or locations used by Marquis, and none of these facilities or locations has been placed or proposed for placement on the National Priorities List (or CERCLIS) under CERCLA, or any similar state list, and no Seller has received any environmental notice regarding potential Liabilities with respect to such off-site Hazardous Substances treatment, storage, or disposal facilities or locations used by Marquis.

4.19.07 Other Environmental Matters.

Marquis has not retained or assumed, by Contract or operation of Law, any Liabilities of third parties under Environmental Law. Seller has provided or otherwise made available to Purchaser and listed in Schedule 4.19.07: (i) any and all environmental reports, studies, audits, records, sampling data, site assessments, risk assessments, economic models, and other similar documents with respect to the business or assets of Marquis or any currently or formerly owned, operated, or leased real property that are in the possession or control of any Seller related to compliance with Environmental Laws, Environmental Claims, or an environmental notice or the release of Hazardous Substances and (ii) any and all material documents concerning planned or anticipated capital expenditures required to reduce, offset, limit, or otherwise control pollution and/or emissions, manage waste, or otherwise ensure compliance with current or future Environmental Laws (including, without limitation, costs of remediation, pollution control equipment, and operational changes). No Seller is aware of or reasonably anticipates, as of the Closing Date, any condition, event, or circumstance concerning the release or regulation of Hazardous Substances that might, after the Closing Date, prevent, impede, or materially increase the costs associated with the ownership, lease, operation, performance, or use of the Business, properties, or assets of Marquis as currently carried out.

4.20 Employee Matters.

4.20.01 Employees.

Marquis employs all employees utilized by it. Attached as Schedule 4.20.01 is a schedule that reflects the following information for each current employee, independent contractor, and consultant of Marquis: name, the last four digits of his or her social security number, hire date, job description, full- or part-time status, current rate of base compensation, bonus or other incentive-based compensation, and whether the employee has an employment agreement. Copies of all employment agreements between Marquis and its employees are attached to Schedule 4.20.01. As of the date hereof, all compensation, including wages, commissions, and bonuses, payable to all employees, independent contractors, or consultants of Marquis for services performed on or prior to the date hereof have been paid in full, and, as of the Closing Date, all such compensation for services performed on or prior to the Closing Date will have been paid in full (or accrued in full on the Closing Date Balance Sheet). Except for the employment agreements attached to Schedule 4.20.01, there are no outstanding Contracts of Marquis with respect to any compensation, commissions, or bonuses. Marquis does not have employees outside of the United States.

4.20.02 Employee Fringe Benefits.

Attached as Schedule 4.20.02 are the fringe benefits available to each employee of Marquis.

4.20.03 Compliance with Employment Laws.

Marquis is and has been in compliance in all material respects with all Laws relating to employment practices, including terms and conditions of employment, equal employment opportunity, nondiscrimination, harassment, retaliation, reasonable accommodation, disability rights or benefits, immigration, wages, hours, overtime compensation, child labor, hiring, promotion and termination of employees, working conditions, meal and break periods, privacy, benefits, collective bargaining, the payment of social security and similar Taxes, occupational safety and health, workers' compensation, leaves of absence, and unemployment insurance. Marquis is not liable for the payment of any Taxes, fines, penalties, or other amounts, however designated, for failure to comply with any of the foregoing legal requirements. Marquis has not been the subject of any inspection or investigation relating to its compliance with or violation of Laws relating to employment practices. All individuals characterized and treated by Marquis as independent contractors or consultants are properly treated as independent contractors under all applicable Laws. All employees of Marquis classified as exempt under the Fair Labor Standards Act and state and local wage and hour laws are properly classified. There are no Proceedings against Marquis pending or, to the Sellers' Knowledge, threatened to be brought or filed, by or with any Governmental Body in connection with the employment of any current or former applicant, employee, consultant, or independent contractor of Marquis.

4.20.04 No Collective Bargaining Agreement.

Marquis is not, and has not been, a party to, bound by, or negotiating any collective bargaining agreement or other Contract with a union, works council, or labor organization (collectively, "Union"), and there is not, and has not been, any Union representing or purporting to represent any employee of Marquis, and no Union or group of employees is seeking or has sought to organize employees for the purpose of collective bargaining. Marquis has not experienced, nor received any threat of, any strike, slowdown, picketing, work stoppage, employee grievance process, claim of unfair labor practice, or other collective bargaining dispute. There is no lockout of any employees by Marquis, and no such action is contemplated by Marquis. Marquis has not committed any unfair labor practice. To the Knowledge of Sellers, (a) no event has occurred or circumstance exists that could provide the basis for any work stoppage or other labor dispute and (b) there is no organizational effort presently being made or threatened by or on behalf of any Union with respect to employees of any Seller.

4.21 Employee Benefit Matters.

4.21.01 Employee Benefit Plans.

Schedule 4.21.01 contains a true and complete list of each pension, benefit, retirement, compensation, employment, consulting, profit-sharing, deferred compensation, incentive, bonus, performance award, phantom equity, stock or stock-based, change in control, retention, severance, vacation, paid time off, welfare, fringe-benefit, and other similar agreement, plan, policy, program, or arrangement (and any amendments thereto), in each case whether or not reduced to writing and whether funded or unfunded, including each “employee benefit plan” within the meaning of Section 3(3) of ERISA, whether or not tax-qualified and whether or not subject to ERISA, which is or has been maintained, sponsored, contributed to, or required to be contributed to by Marquis for the benefit of any current or former employee, officer, director, retiree, independent contractor, or consultant of Marquis or any spouse or dependent of such individual, or under which Marquis or any of its ERISA Affiliates has or may have any Liability, or with respect to which Purchaser or any of its Affiliates would reasonably be expected to have any Liability, contingent or otherwise (as listed on Schedule 4.21.01, each, a “Benefit Plan”). Marquis has separately identified in Schedule 4.21.01 each Benefit Plan that contains a change in control provision.

4.21.02 Access to Plan Documents.

With respect to each Benefit Plan, Seller has made available to Purchaser accurate, current, and complete copies of each of the following: (i) where the Benefit Plan has been reduced to writing, the plan document together with all amendments; (ii) where the Benefit Plan has not been reduced to writing, a written summary of all material plan terms; (iii) where applicable, copies of any trust agreements or other funding arrangements, custodial agreements, insurance policies and contracts, administration agreements and similar agreements, and investment management or investment advisory agreements, now in effect or required in the future as a result of the transactions contemplated by this Agreement or otherwise; (iv) copies of any summary plan descriptions, summaries of material modifications, employee handbooks, and any other written communications (or a description of any oral communications) relating to any Benefit Plan; (v) in the case of any Benefit Plan that is intended to be qualified under Section 401(a) of the Code, a copy of the most recent determination, opinion, or advisory letter from the Internal Revenue Service; (vi) in the case of any Benefit Plan for which a Form 5500 is required to be filed, a copy of the two most recently filed Form 5500, with schedules and financial statements attached; (vii) actuarial valuations and reports related to any Benefit Plans with respect to the two most recently completed plan years; (viii) the most recent nondiscrimination tests performed under the Code; and (ix) copies of material notices, letters, or other correspondence from the Internal Revenue Service, Department of Labor, Pension Benefit Guaranty Corporation, or other Governmental Body relating to the Benefit Plan.

4.21.03 Compliance with Law.

Each Benefit Plan and related trust (other than any multiemployer plan within the meaning of Section 3(37) of ERISA (each a “Multiemployer Plan”)) has been established, administered, and maintained in accordance with its terms and in compliance with all applicable Laws. Each Benefit Plan that is intended to be qualified under Section 401(a) of the Code (a “Qualified Benefit Plan”) is so qualified and has received a favorable and current determination letter from the Internal Revenue Service, or with respect to a prototype plan, can rely on an opinion letter from the Internal Revenue Service to the prototype plan sponsor, to the effect that such Qualified Benefit Plan is so qualified and that the plan and the trust related thereto are exempt from federal income taxes under Sections 401(a) and 501(a), respectively, of the Code, and nothing has occurred that could reasonably be expected to adversely affect the qualified status of any Qualified Benefit Plan. Nothing has occurred with respect to any Benefit Plan that has subjected or could reasonably be expected to subject Marquis or any of its ERISA Affiliates or, with respect to any period on or after the Closing Date, Purchaser or any of its Affiliates, to a penalty under Section 502 of ERISA or to Tax or penalty under Section 4975 of the Code. All benefits, contributions, and premiums relating to each Benefit Plan have been timely paid in accordance with the terms of such Benefit Plan and all applicable Laws and accounting principles, and all benefits accrued under any unfunded Benefit Plan have been paid, accrued, or otherwise adequately reserved to the extent required by, and in accordance with, GAAP.

4.21.04 Plan Liabilities.

Neither Marquis nor any of its ERISA Affiliates has (i) incurred or reasonably expects to incur, either directly or indirectly, any material Liability under Title I or Title IV of ERISA or related provisions of the Code or applicable local Law relating to employee benefit plans; (ii) failed to timely pay premiums to the Pension Benefit Guaranty Corporation; (iii) withdrawn from any Benefit Plan; or (iv) engaged in any transaction that would give rise to liability under Section 4069 or Section 4212(c) of ERISA.

4.21.05 No Multiemployer Plan, Etc.

With respect to each Benefit Plan, (i) no such plan is a Multiemployer Plan; (ii) no such plan is a “multiple employer plan” within the meaning of Section 413(c) of the Code or a “multiple employer welfare arrangement” (as defined in Section 3(40) of ERISA); (iii) no Proceeding has been initiated by the Pension Benefit Guaranty Corporation to terminate any such plan or to appoint a trustee for any such plan; and (iv) no such plan is subject to the minimum funding standards of Section 412 of the Code or Title IV of ERISA, and none of the assets of Marquis or any ERISA Affiliate is, or may reasonably be expected to become, the subject of any lien arising under Section 302 of ERISA or Section 412(a) of the Code.

4.21.05 Modification.

Each Benefit Plan can be amended, terminated, or otherwise discontinued after the Closing in accordance with its terms, without material liabilities to Purchaser, Marquis, or any of their Affiliates other than ordinary administrative expenses typically incurred in a termination event. Marquis has no commitment or obligation and has not made any representations to any employee, officer, director, independent contractor, or consultant, whether or not legally binding, to adopt, amend, modify, or terminate any Benefit Plan or any collective bargaining agreement, in connection with the consummation of the Transactions.

4.21.06 Post-employment Obligations.

Other than as required under Section 601, et seq. of ERISA or other applicable Law, no Benefit Plan provides post-termination or retiree welfare benefits to any individual for any reason, and neither Marquis nor any of its ERISA Affiliates has any Liability to provide post-termination or retiree welfare benefits to any individual or ever represented, promised, or contracted to any individual that such individual would be provided with post-termination or retiree welfare benefits.

4.21.07 Proceedings.

There is no pending or, to Sellers’ Knowledge, threatened Proceeding relating to a Benefit Plan (other than routine claims for benefits) and no Benefit Plan has been the subject of an examination or audit by a Governmental Body or the subject of an application or filing under or is a participant in, an amnesty, voluntary compliance, self-correction, or similar program sponsored by any Governmental Body.

4.21.08 No Amendment.

There has been no amendment to, announcement by Seller or any of its Affiliates relating to, or change in employee participation or coverage under, any Benefit Plan that would increase the annual expense of maintaining such plan above the level of the expense incurred for the most recently completed fiscal year with respect to any director, officer, employee, independent contractor, or consultant, as applicable.

4.21.09 409A Compliance.

Each Benefit Plan that is subject to Section 409A of the Code has been administered in compliance with its terms and the operational and documentary requirements of Section 409A of the Code and all applicable regulatory guidance (including notices, rulings, and proposed and final regulations) thereunder. Marquis does not have any obligation to gross up, indemnify, or otherwise reimburse any individual for any excise taxes, interest, or penalties incurred pursuant to Section 409A of the Code.

4.21.10 Independent Contractor Classification.

Each individual who is classified by Marquis as an independent contractor has been properly classified for purposes of participation and benefit accrual under each Benefit Plan.

4.21.11 Effect of Transactions.

Neither the execution of this Agreement nor any of the Transactions will (either alone or upon the occurrence of any additional or subsequent events): (i) entitle any current or former director, officer, employee, independent contractor, or consultant of Marquis to severance pay or any other payment; (ii) accelerate the time of payment, funding, or vesting, or increase the amount of compensation due to any such individual; (iii) limit or restrict the right of Marquis to merge, amend, or terminate any Benefit Plan; (iv) increase the amount payable under or result in any other material obligation pursuant to any Benefit Plan; (v) result in “excess parachute payments” within the meaning of Section 280G(b) of the Code; or (vi) require a “gross-up” or other payment to any “disqualified individual” within the meaning of Section 280G(c) of the Code.

4.22 Transactions with Related Persons.

No Stockholder (or Affiliate thereof), officer, director, or employee of Marquis (a) owns or has owned any interest in any asset used or held for use in the Business, (b) is or has been involved in any business transaction with Marquis except as an employee, (c) engages or has engaged in competition with Marquis, (d) has borrowed any monies from or has outstanding any indebtedness or other similar obligation to Marquis except for the liabilities included in the Other Non-Operating Assets, or (e) is currently a party to any Contract with Marquis.

4.23 Insurance.

Schedule 4.23 sets forth the following information with respect to each Insurance Policy: the name of the insurer, the policy number, the name of the policyholder, the period of coverage, and the amount of coverage. True and complete copies of such Insurance Policies have been made available to Purchaser. All premiums relating to the Insurance Policies have been timely paid or, if due and payable prior to Closing, will be paid prior to Closing in accordance with the payment terms of each Insurance Policy. Marquis does not have any self-insurance programs. Marquis has been covered during the past ten years by insurance in scope and amount customary and reasonable for the businesses in which it has engaged during such period and sufficient for compliance with all applicable Laws and Contracts to which Marquis is a party or by which it is bound. The Insurance Policies are in full force and effect and shall remain in full force and effect following the consummation of the Transactions. No Seller has received any written notice of cancellation of, premium increase with respect to, or alteration of coverage under, any of such Insurance Policies. The Insurance Policies do not provide for any retrospective premium adjustment or other experience-based liability on the part of Marquis. All such Insurance Policies (a) are valid and binding in accordance with their terms; (b) are provided by carriers who are financially solvent; and (c) have not been subject to any lapse in coverage. There are no claims pending under any such Insurance Policies as to which coverage has been questioned, denied, or disputed or in respect of which there is an outstanding reservation of rights. Marquis is not in default under, and has not otherwise failed to comply with, in any material respect, any provision contained in any such Insurance Policy.

4.24 No Brokers' Fees.

Except as set forth on Schedule 4.24, Sellers have no liability for any fee, commission, or payment to any broker, finder, or agent with respect to the Transactions.

4.25 Debt.

Schedule 4.25 sets forth a true and complete list as of the date of this Agreement of all Debt of Marquis and provides (a) the names of the original lender and current holder (to the extent that Marquis has received a written notice of the assignment thereof) and (b) outstanding principal balances and all accrued and unpaid interest as of the date hereof. The information contained in Schedule 4.25 is complete and accurate in all respects and Marquis does not have any Debt other than the Debt set forth in Schedule 4.25. True, correct, and complete copies of all Contracts and other instruments (including all amendments, supplements, waivers, and consents) evidencing, providing security for, and relating to such Debt have been made available to Purchaser. Following payment of the Closing Debt Amount at Closing pursuant to Section 2.06.02, there will be no outstanding Debt (including any pre-payment fees, exit fees, rescheduling fees, or penalties) of Marquis arising from obligations created by Marquis prior to the Closing.

4.26 Material Customers and Suppliers.

4.26.01 Material Customers.

Schedule 4.26.01 sets forth (i) the twenty-five (25) largest customers of Marquis based upon the aggregate consideration paid to Marquis for goods or services rendered during each of the two most recent fiscal years (collectively, the "Material Customers") and (ii) the amount of consideration paid by each Material Customer during such periods. Marquis has not received any notice, and has no reason to believe, that any of its Material Customers has ceased, or intends to cease, to use its goods or services or to otherwise terminate or materially reduce its relationship with Marquis.

4.26.02 Material Suppliers.

Schedule 4.26.02 sets forth (i) the ten (10) largest suppliers of Marquis based upon the consideration paid by Marquis for goods or services rendered for each of the two most recent fiscal years (collectively, the "Material Suppliers") and (ii) the amount of purchases from each Material Supplier during such periods. Marquis has not received any notice, and has no reason to believe, that any of its Material Suppliers has ceased, or intends to cease, to supply goods or services to Marquis or to otherwise terminate or materially reduce its relationship with Marquis.

4.27 Full Disclosure.

No representation or warranty by Seller in this Agreement and no statement contained in the Schedules to this Agreement or any certificate or other document furnished or to be furnished to Purchaser pursuant to this Agreement contains any untrue statement of a material fact, or omits to state a material fact necessary to make the statements contained therein, in light of the circumstances in which they are made, not misleading.

5. Representations and Warranties of Live and Purchaser.

Live and Purchaser, jointly and severally, represent and warrant to Sellers as follows:

5.01 Organization and Authority.

Purchaser is a limited liability company duly organized, validly existing, and in good standing under the laws of the State of Delaware. Purchaser has full limited liability company power and authority to execute and deliver this Agreement and the other Transaction Documents to which it is a party and to perform its obligations hereunder and thereunder. The execution and delivery by Purchaser of this Agreement and each other Transaction Document to which Purchaser is a party and the performance by Purchaser of its obligations hereunder and thereunder have been duly authorized by all requisite action of Purchaser. This Agreement has been duly executed and delivered by Purchaser, and constitutes a legal, valid, and binding obligation of Purchaser enforceable against Purchaser in accordance with its terms. When each other Transaction Document to which Purchaser is or will be a party has been duly executed and delivered by Purchaser, such Transaction Document will constitute the valid and legally binding obligations of Purchaser, enforceable against Purchaser in accordance with its terms.

5.02 No Conflicts.

Neither the execution and delivery of this Agreement nor any other Transaction Document to which Purchaser is a party nor the performance of Purchaser's obligations hereunder and thereunder will, directly or indirectly, with or without notice or lapse of time: (a) violate any Law to which Purchaser is subject; (b) violate any Organizational Document of Purchaser; or (c) violate, conflict with, result in a breach of, constitute a default under, result in the acceleration of, or give any Person the right to accelerate the maturity or performance of, or to cancel, terminate, modify, or exercise any remedy under, any contract to which Purchaser is a party or by which Purchaser is bound or the performance of which is guaranteed by Purchaser. Purchaser is not required to notify, make any filing with, or obtain any Consent of any Person in order to perform the Transactions.

5.03 Litigation.

There is no Proceeding pending or, to the knowledge of Purchaser, threatened or anticipated against Purchaser relating to or affecting the Transactions.

5.04 No Brokers' Fees.

Purchaser has no liability for any fee, commission, or payment to any broker, finder, or agent with respect to the Transactions.

6. Covenants of Sellers.

From and after the date of this Agreement and until the Closing, Sellers covenant and agree that (with the references in this Section 6 to "Marquis" deemed to refer to the Company and its Subsidiaries, individually, interchangeably, and in the aggregate, as the context requires and irrespective of verb tense):

6.01 Ordinary Course of Business.

The Business shall be operated in the ordinary course of business consistent with past practice and in accord and in compliance with the representations and warranties set forth in Section 4. Sellers shall use reasonable best efforts to maintain and preserve intact the current organization and business of Marquis and to preserve the rights, goodwill, and relationships of its employees, customers, lenders, suppliers, regulators, and others having business relationships with Marquis. Without limiting the foregoing provisions of this Section 6.01, Sellers shall: (a) cause Marquis to preserve and maintain all of its Permits; (b) cause Marquis to pay its debts, Taxes, and other obligations when due; (c) cause Marquis to maintain the properties and assets owned, operated, or used by Marquis in the same condition as they were on the date of this Agreement, subject to reasonable wear and tear; (d) cause Marquis to continue in full force and effect without modification all Insurance Policies, except as required by applicable Law; (e) cause Marquis to defend and protect its properties and assets from infringement or usurpation; (f) cause Marquis to perform all of its obligations under all Contracts relating to or affecting its properties, assets, or business; (g) cause Marquis to maintain its books and records in accordance with past practice; (h) cause Marquis to comply with all applicable Laws; and (i) cause Marquis not to take or permit any action that would cause any of the changes, events, or conditions described in Section 4.06 to occur.

6.02 Books and Records, Financial Statements, and Access.

The Books and Records and Financial Statements of Marquis and its Subsidiaries shall be maintained according to GAAP and consistent with prior reporting periods. As interim monthly Financial Statements are published, those statements shall be delivered to Purchaser. Sellers shall (a) allow Purchaser and its Affiliates, Representatives, and prospective sources of the Financing reasonable access to its financial managers who maintain the Books and Records and Financial Statements, (b) afford Purchaser and its Affiliates, Representatives, and prospective sources of the Financing full and free access to and the right to inspect all of the Real Property, properties, assets, premises, Books and Records, Contracts, and other documents and data related to Marquis; (c) furnish Purchaser and its Affiliates, Representatives, and prospective sources of the Financing with such financial, operating, and other data and information related to Marquis as Purchaser or its Affiliates, Representatives, or prospective sources of the Financing may reasonably request; and (d) instruct the Representatives of Seller to cooperate with Purchaser and its Affiliates, Representatives, and prospective sources of the Financing in their investigation of Marquis and the Business. Without limiting the foregoing, Sellers shall permit Purchaser and its Affiliates, Representatives, and prospective sources of the Financing to conduct environmental due diligence of Marquis, the Business, and the Real Property. Any investigation pursuant to this Section 6.02 shall be conducted in such manner as not to interfere unreasonably with the conduct of the Business.

6.03 Capital Expenditures.

Marquis shall not make any capital expenditures outside of the ordinary course of business consistent with past practice without obtaining Purchaser's prior written consent (not to be unreasonably withheld, delayed, denied, or conditioned).

6.04 Consultation with Purchaser.

Sellers shall consult with Purchaser about current trends in sales, distribution, and manufacturing to identify opportunities to expand the Business. Sellers shall allow Purchaser reasonable access to its sales and manufacturing managers.

6.05 Purchase of Minority Interest in SF Commercial and Distribution of Non-Operating Assets.

Prior to the Closing, the Company shall acquire the minority interest in SF Commercial that it does not currently own, and distribute the Non-Operating Assets to its Stockholders.

6.06 Notice of Material Adverse Effect and Certain Other Events.

Sellers shall promptly notify Purchaser in writing of (i) any fact, circumstance, event, or action the existence, occurrence, or taking of which (A) has had, or could reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect or impact any representation or warranty set forth in Section 4; (ii) any notice or other communication from any Person alleging that the consent of such Person is or may be required in connection with the Transactions; (iii) any notice or other communication from any Governmental Body in connection with the Transactions; and (iv) any Proceedings commenced or, to Sellers' Knowledge, threatened against, relating to, or involving or otherwise affecting any Seller or the Business that, if pending on the date of this Agreement, would have been required to have been disclosed pursuant to Section 4.17.

6.07 No Solicitation of Other Bids.

Sellers shall not, and shall not authorize or permit any of their respective Affiliates or any of their Representatives to, directly or indirectly, (i) encourage, solicit, initiate, facilitate, or continue inquiries regarding an Acquisition Proposal; (ii) enter into discussions or negotiations with, or provide any information to, any Person concerning a possible Acquisition Proposal; or (iii) enter into any agreements or other instruments (whether or not binding) regarding an Acquisition Proposal. Sellers shall immediately cease and cause to be terminated, and shall cause their respective Affiliates and all of their Representatives to immediately cease and cause to be terminated, all existing discussions or negotiations with any Persons conducted heretofore with respect to, or that could lead to, an Acquisition Proposal. For purposes hereof, "Acquisition Proposal" shall mean any inquiry, proposal, or offer from any Person (other than Purchaser or any of its Affiliates) concerning (i) a merger, consolidation, liquidation, recapitalization, share exchange, or other business combination transaction involving Marquis; (ii) the issuance or acquisition of shares of capital stock or other equity securities of Marquis; or (iii) the sale, lease, exchange, or other disposition of any significant portion of the properties or assets Marquis. In addition to the other obligations under this Section 6.07, Sellers shall promptly (and in any event within three (3) Business Days after receipt thereof by any Seller or its Representatives) advise Purchaser orally and in writing of any Acquisition Proposal, any request for information with respect to any Acquisition Proposal, or any inquiry with respect to or which could reasonably be expected to result in an Acquisition Proposal, the material terms and conditions of such request, Acquisition Proposal or inquiry, and the identity of the Person making the same. Sellers agree that the rights and remedies for noncompliance with this Section 6.07 shall include having such provision specifically enforced by any court having equity jurisdiction, it being acknowledged and agreed that any such breach or threatened breach shall cause irreparable injury to Purchaser and its Affiliates and that money damages would not provide an adequate remedy to Purchaser or Live.

6.08 Financing.

Sellers shall cooperate and take all actions reasonably requested by Purchaser in connection with Purchaser obtaining the Financing.

7. Covenants of Live and Purchaser.

Live and Purchaser covenant and agree that:

7.01 Financing.

Live and Purchaser shall use their reasonable best efforts, at their cost and expense, to obtain the financing needed in order to consummate the transactions contemplated by this Agreement (the "Financing"), on terms agreed upon by Live and the Stockholders with respect to the junior loan and on terms substantially similar to, or that are substantially no less favorable to Purchaser than, those set forth in the term sheet provided by Live to the Company with respect to the senior loan.

7.02 Due Diligence.

In the course of their due diligence conducted prior to Closing, should Live or Purchaser discover facts that implicate in a negative and material way any of the representations and warranties of Sellers set forth in Section 4, Purchaser shall promptly give notice of those facts to the Company, so that Sellers may investigate and determine whether or not the underlying situation needs remediation.

8. Other Covenants of the Parties.

The Parties agree as follows (with the references to "Marquis" deemed to refer to the Company and its Subsidiaries, individually, interchangeably, and in the aggregate, as the context requires and irrespective of verb tense):

8.01 Employment of Stockholders.

Subject to and effective as of the Closing, the Company shall enter into the Employment Agreements with each Stockholder.

8.02 Closing Conditions.

From the date hereof until the Closing, each Party shall use reasonable best efforts to take such actions as are necessary to expeditiously satisfy the closing conditions set forth in Article 12 hereof.

8.03 Public Announcements.

Unless otherwise required by applicable Law or stock exchange requirements, no Party shall make any public announcements in respect of this Agreement or the Transactions or otherwise communicate with any news media without the prior written consent of, in the case of any such public announcement or communication by Purchaser or any of its Affiliates, the Stockholders' Representative, and, in the case of any such public announcement or communication by any Seller (excluding the Company after the Closing), Purchaser, and in each case which consent shall not be unreasonably withheld, delayed, denied, or conditioned, and the Parties shall cooperate as to the timing and contents of any such announcement.

8.04 Further Assurances.

Following the Closing, each of the Parties shall, and shall cause their respective Affiliates to, execute and deliver such additional documents, instruments, conveyances, and assurances and take such further actions as may be reasonably required to carry out the provisions hereof and give effect to the Transactions.

8.05 Tax Matters.

8.05.01 Changes in Tax Elections or Tax Returns.

Without the prior written consent of Live, Sellers and their respective Representatives shall not, to the extent it may affect, or relate to, Marquis, make, change, or rescind any Tax election, amend any Tax Return, or take any position on any Tax Return, take any action, omit to take any action, or enter into any other transaction that would have the effect of increasing the Tax liability or reducing any Tax asset of Purchaser or Marquis in respect of any Post-Closing Tax Period. Notwithstanding the forgoing, Purchaser and Live acknowledge that Purchaser is not a qualified Subchapter S stockholder and that the Company's Subchapter S status shall terminate at the Effective Time and, thereafter, the Company shall be taxed as a C corporation. The Stockholders agree that neither Purchaser nor Live is to have any Liability for any Tax resulting from any such action referenced in this Section 8.05.01 of any Seller or any of its Representatives, and agree to indemnify and hold harmless Purchaser, Live, and, after the Closing Date, Marquis against any such Tax or reduction of any Tax asset, but not from the conversion of the Company's tax status as a S corporation to a C corporation.

8.05.02 Transfer Taxes.

Any transfer, documentary, sales, use, stamp, registration, value added, and other such Taxes and fees (including any penalties and interest) incurred in connection with this Agreement and the other Transaction Documents (including any real property transfer Tax and any other similar Tax) shall be borne and paid by the Stockholders when due. The Stockholders shall, at their own expense, timely file any Tax Return or other document with respect to any such Taxes or fees (and Purchaser and Live shall cooperate with respect thereto as necessary).

8.05.03 Tax Returns Filed After the Closing Date.

The Stockholders' Representative shall prepare or cause to be prepared and file or cause to be filed all Tax Returns for Marquis for all periods ending prior to the Effective Time that are filed after the Effective Time. Any such Tax Returns shall be prepared in a manner consistent with past practice (unless otherwise required by Law) and without a change of any election or accounting method and the Stockholders shall include any income, gain, loss, deduction or other tax items for such periods on their Tax Returns in a manner consistent with the Schedule K-1s prepared by Stockholders for such periods. Purchaser shall prepare, or cause to be prepared, all Tax Returns required to be filed by Marquis after the Effective Time with respect to any Straddle Period. Any such Tax Returns shall be prepared in a manner consistent with past practice (unless otherwise required by Law) and without a change of any election or accounting method. Purchaser shall permit the Stockholders' Representative reasonable opportunity to review and comment on each such Tax Return prior to filing, which such comments Purchaser shall consider in good faith. Purchaser shall prepare or cause to be prepared and file or cause to be filed all Tax Returns for Marquis for all periods beginning at or after the Effective Time.

8.05.04 Termination of Existing Tax Sharing Agreements.

Any and all existing Tax sharing agreements (whether written or not) binding upon Marquis shall be terminated as of the Closing Date.

8.05.05 Tax Indemnification.

The Stockholders shall, jointly and severally, indemnify Purchaser Indemnitees and hold them harmless from and against (a) any Loss attributable to any breach of or inaccuracy in any representation or warranty made in Section 4.15; (b) any Loss attributable to any breach or violation of, or failure to fully perform, any covenant, agreement, undertaking, or obligation in this Section 8.05; (c) all Taxes of Marquis, the Stockholders or relating to the Business for all Pre-Closing Tax Periods; (d) all Taxes of any member of an affiliated, consolidated, combined, or unitary group of which Marquis (or any predecessor of Marquis) is or was a member on or prior to the Closing Date by reason of a liability under Treasury Regulation Section 1.1502-6 or any comparable provisions of foreign, state, or local Law; and (e) any and all Taxes of any Person imposed on Marquis arising under the principles of transferee or successor liability or by Contract, relating to an event or transaction occurring before the Closing Date; in each of the above cases, together with any out-of-pocket fees and expenses (including reasonable attorneys' and accountants' fees) incurred in connection therewith. The Stockholders shall reimburse Purchaser for any Taxes of Marquis that are the responsibility of any Stockholder pursuant to this Section 8.05 within five (5) Business Days after payment of such Taxes by any Purchaser Indemnitee. Purchaser agrees to give written notice to the Stockholders' Representative promptly upon the receipt of any written notice by Marquis, Purchaser, or any of Purchaser's Affiliates that involves the assertion of any claim, or the commencement of any Proceeding, in respect of which an indemnity may be sought by Purchaser pursuant to this Section 8.05 (a "Tax Claim"); *provided, that* failure to comply with this provision shall not relieve the Stockholders of their indemnification obligations, except and only to the extent that the Stockholders forfeit rights or defenses by reason of such failure. Purchaser shall control the contest or resolution of any Tax Claim; *provided, however,* that Purchaser shall obtain the prior written consent of the Stockholders' Representative (which consent shall not be unreasonably withheld, delayed, denied, or conditioned) before entering into any settlement of a Tax Claim or ceasing to defend such Tax Claim; and, *provided, further,* that the Stockholders' Representative shall be entitled to participate in the defense of such Tax Claim and to employ counsel of his choice for such purpose, the fees and expenses of which separate counsel shall be borne solely by the Stockholders.

8.05.06 Straddle Period.

In the case of Taxes that are payable with respect to a taxable period that begins before and ends after the Effective Time (each such period, a "Straddle Period"), the portion of any such Taxes that are treated as Pre-Closing Taxes for purposes of this Agreement shall be: (a) in the case of Taxes (i) based upon, or related to, income, receipts, profits, wages, capital, or net worth, (ii) imposed in connection with the sale, transfer, or assignment of property, or (iii) required to be withheld, deemed equal to the amount which would be payable if the taxable year ended as of the Effective Time and (b) in the case of other Taxes, deemed to be the amount of such Taxes for the entire period multiplied by a fraction, the numerator of which is the number of days in the period ending on the date immediately preceding the Closing Date and the denominator of which is the number of days in the entire period.

8.05.07 Cooperation and Exchange of Information.

The Stockholders' Representative and Purchaser shall provide each other with such cooperation and information as either of them reasonably may request of the other in filing any Tax Return pursuant to this Section 8.05 or in connection with any audit or other proceeding in respect of Taxes of Marquis. Such cooperation and information shall include providing copies of relevant Tax Returns or portions thereof, together with accompanying schedules, related work papers, and documents relating to rulings or other determinations by tax authorities. Each of the Stockholders and Purchaser shall retain all Tax Returns, schedules, work papers, records, and other documents in its possession relating to Tax matters of Marquis (but excluding individual Tax Returns, schedules to individual Tax returns, K-1's, and similar documents) for any taxable period beginning before the Closing Date until the expiration of the statute of limitations of the taxable periods to which such Tax Returns and other documents relate, without regard to extensions except to the extent notified by the other Party in writing of such extensions for the respective Tax periods. Prior to transferring, destroying, or discarding any Tax Returns, schedules, work papers, records, and other documents in its possession relating to Tax matters of Marquis for any taxable period beginning before the Closing Date that are required to be retained pursuant to the immediately preceding sentence, the Stockholders or Purchaser (as the case may be) shall provide the other Party (which, in the case of Purchaser providing the notice, shall be the Stockholders' Representative) with reasonable written notice and offer such other Party the opportunity to take custody of such materials.

8.05.07 Tax Refunds; Amended Returns.

Purchaser shall promptly pay or cause to be paid to the Stockholders' Representative any Tax refunds or credits for the overpayment of Taxes for any Pre-Closing Tax Period that are received by, or credited to, Purchaser or the Company (or any successor thereof). At the Stockholders' Representative's reasonable request, Purchaser shall cooperate with the Stockholders' Representative in all commercially reasonable respects in obtaining any such refunds, including through the filing of amended Tax Returns or refund claims as prepared by the Stockholders' Representative, at his own expense on behalf of the Stockholders. Purchaser shall not amend any Tax Return of, or file any refund claim on behalf of, the Company with respect to a Pre-Closing Tax Period (or portion thereof) ending prior to the Closing Date without the prior written consent of the Stockholders' Representative (not to be unreasonably withheld, delayed, denied, or conditioned).

8.05.08 Tax Treatment of Indemnification Payments.

Any indemnification payments pursuant to this Section 8.05 shall be treated as an adjustment to the Purchase Price by the Parties for Tax purposes, unless otherwise required by Law.

8.05.09 Survival.

Notwithstanding anything in this Agreement to the contrary, the provisions of Section 4.15 and this Section 8.05 shall survive for the full period of all applicable statutes of limitations (giving effect to any waiver, mitigation, or extension thereof) plus 60 days.

8.05.10 Overlap.

To the extent that any obligation or responsibility pursuant to this Section 8.05 may overlap with an obligation or responsibility pursuant to Section 10, the provisions of this Section 8.05 shall govern.

8.06 Title Insurance; Surveys.

Purchaser may obtain, at its sole option and expense, and Sellers shall grant Purchaser and its financing sources for the Financing access to obtain (a) commitments for owner's and/or lender's title insurance policies (ALTA Form 2006) on the Real Property other than the Artisans Property (collectively, the "Title Commitments"), and (b) an ALTA survey on each parcel of Real Property other than the Artisans Property (the "Surveys"); *provided, however*, that Sellers shall provide Purchaser with any existing title commitments, title policies, and surveys relating to the Real Property in a Seller's possession or control. The Title Commitments will evidence a commitment to issue an ALTA title insurance policy insuring good, marketable, and indefeasible fee simple title to each parcel of the Real Property other than the Artisans Property for such amount as Purchaser or its financing sources for the Financing directs and will contain no exceptions except for Permitted Encumbrances, with each of the title company's standard printed exceptions in Schedule B thereto deleted at Sellers' expense. Sellers shall reasonably cooperate with Purchaser and its financing sources for the Financing in obtaining such Title Commitments and Surveys (including by providing customary representations and affidavits to the title company). If the Title Commitments or Surveys reveal any Encumbrance on the title, other than Permitted Encumbrances, Purchaser may notify the Stockholder's Representative in writing of such objectionable matter as promptly as practicable after Purchaser determines that such matter is not a Permitted Encumbrance, and Sellers shall use their commercially reasonable efforts to remove such objectionable matter as required pursuant to the terms of this Agreement.

8.07 Confidential Information.

From and after the Closing, the Stockholders agree to, and shall cause their respective Representatives to: (i) treat and hold as confidential (and not disclose or provide access to any Person to) all information, whether written or oral, relating to the Business, Marquis, Purchaser, or its Affiliates, (ii) in the event that any Stockholder or any Representative thereof becomes legally compelled to disclose any such information, provide Purchaser with prompt written notice of such requirement so that Purchaser or Marquis may seek a protective order or other remedy or waive compliance with this Section 8.07, and (iii) in the event that such protective order or other remedy is not obtained, or Purchaser waives compliance with this Section 8.07, furnish only that portion of such confidential information that is legally required to be provided and exercise his reasonable best efforts to obtain assurances that confidential treatment will be accorded such information; *provided, however*, that this sentence shall not apply to any information that, at the time of disclosure, is available publicly and was not disclosed in breach of this Agreement by any Stockholder or his Representatives.

8.08 Joint Privilege.

The Stockholders and Purchaser acknowledge and agree that the attorney-client privilege, attorney work product doctrine, and expectation of client confidence involving the Business or Marquis and arising prior to the Closing for the benefit of both Stockholders and Marquis shall be subject to a joint privilege between Stockholders, on the one hand, and Marquis, on the other hand, and Stockholders and Marquis shall have equal right to assert all such joint privilege and protection and no such joint privilege may be waived by (a) any Stockholder without the prior written consent of Marquis or (b) Marquis without the prior written consent of the Stockholders' Representative.

8.09 Consents.

Sellers shall use reasonable best efforts to give all notices to, and obtain all Consents from, all Persons that are set forth in Schedule 4.04. If any Consent necessary to preserve any right or benefit under any Contract to which Marquis is a party is not obtained prior to the Closing, the Stockholders shall, subsequent to the Closing, cooperate with Purchaser and Marquis in attempting to obtain such Consent as promptly thereafter as practicable. If such Consent cannot be obtained, the Stockholders shall use their reasonable best efforts to provide Marquis with the rights and benefits of the affected Contract for the term thereof, and, if the Stockholders provide such rights and benefits, Marquis shall assume all obligations and burdens thereunder.

8.10 Non-Compete and Non-Solicit Covenants.

8.10.01 Definitions.

For purposes of this Section 8.10:

“Compete” means to, directly or indirectly, own, manage, control, or participate in the ownership, management, or control of, or be employed or engaged by or otherwise affiliated or associated as a consultant, independent contractor, or otherwise with, any Competitor, or otherwise directly or indirectly engage in any Restricted Business targeted to the Restricted Area.

“Competitor” means any person or entity (other than Purchaser or its Affiliates) who undertakes any Restricted Business in the Restricted Area, regardless of whether or not the Competitor is physically located inside or outside the Restricted Area.

“Customer” means any current, former, or prospective customer of Marquis.

“Restricted Area” means each area of each state and territory of the United States of America.

“Restricted Business” means any business that is competitive with the Business in the Restricted Area.

“Restriction Period” means the period commencing on the Closing Date and ending on the later of (i) the date that is the fifth (5th) anniversary of the Closing Date and (ii) the date of termination of the applicable Stockholder’s Employment Agreement.

8.10.02 Non-Compete.

During the Restriction Period, none of the Stockholders shall, nor shall he permit any of his Affiliates to, Compete. Notwithstanding the foregoing, a Stockholder is permitted to own up to five percent (5%) of the outstanding capital stock or other equity interests of any publicly-traded entity that is a Competitor.

8.10.03 Non-Solicit.

During the Restriction Period, none of the Stockholders shall, nor shall he permit any of his Affiliates to, directly or indirectly, for himself or another, (i) solicit Customers for any purpose related to a Restricted Business or (ii) solicit the employment of, assist in the soliciting of the employment of, or otherwise solicit the association in business with, any employee or officer of Purchaser or any Affiliate thereof, or induce any person who is an employee, officer, agent, or contractor of Purchaser or any Affiliate thereof, to terminate such relationship, or to join with such Stockholder or any other Person for the purpose of leaving the employ or such other relationship with Purchaser or any Affiliate thereof, and undertaking any form of business.

8.10.03 Acknowledgments.

The Stockholders acknowledge that a breach or threatened breach of this Section 8.10 would give rise to irreparable harm to Purchaser, for which monetary damages would not be an adequate remedy, and hereby agrees that in the event of a breach or a threatened breach by any Stockholder of his of its obligations under this Section 8.10, Purchaser shall, in addition to any and all other rights and remedies that may be available to it in respect of such breach, be entitled to equitable relief, including a temporary restraining order, an injunction, specific performance, and any other relief that may be available from a court of competent jurisdiction (without any requirement to post bond). The Stockholders acknowledge that the restrictions contained in this Section 8.10 are (i) directly related to the amount that Purchaser is willing to pay for the Stock, (ii) reasonable and necessary to protect the legitimate interests of Purchaser, and (iii) constitute a material inducement to Purchaser to enter into this Agreement and consummate the transactions contemplated by this Agreement.

8.11 Audited Financial Statements.

Sellers acknowledge that Purchaser or its Affiliate may be required under applicable Law to provide certain audited financial statements covering the Business in accordance with its periodic reporting obligations under the Exchange Act (collectively the “Audited Financials”). With respect to the foregoing, Sellers and Purchaser agree that Sellers shall afford to Purchaser, its Affiliates, and their respective Representatives, at Purchaser’s expense, during normal business hours, reasonable access to the books, records, and other data of Sellers, and use reasonable best efforts to cause Marquis’ accountants to make available all of their work papers, that in each case include or relate to the Business or Marquis, and, to the extent permitted by such accountants, Purchaser and its independent registered public accounting firm shall have the right to make copies and extracts therefrom, to the extent that such access may be reasonably required by Purchaser or any of its Affiliates to prepare, complete, and file such Audited Financials at the expense of Purchaser.

8.12 Release of Bailey’s Guaranty of the Marquis’ Factor Accounts.

From the date hereof until the Closing, each Party shall use reasonable best efforts to take such actions as are necessary to cause Bailey’s guaranty of the Marquis’ Factor Accounts to be released and marked satisfied at Closing.

9. Certain Post-Closing Covenants.

The Parties agree as follows (with the references to “Marquis” in this Section 9 deemed to refer to the Company and its Subsidiaries, individually, interchangeably, and in the aggregate, as the context requires and irrespective of verb tense).

9.01 Preparation of Closing Payment Calculations.

The Parties shall cooperate with each other with respect to the calculations contemplated under Section 2.03 and Section 2.05.

9.02 Access to Books and Records and Financial Statements.

For a period of five (5) years following the Closing, Purchaser shall allow Stockholders, during regular business hours, reasonable access to the Books and Records and Financial Statements of Marquis with respect to periods prior to the Closing, to the extent that such access may be reasonably required by Stockholders (i) to facilitate the investigation, litigation, and final disposition of any claims that may have been or may be made in writing against any Stockholder by any third-party (including any Purchaser Indemnitee pursuant to Section 10) or (ii) for any other reasonable purpose.

9.03 Life Insurance on Stockholders.

If Purchaser elects to purchase a key man insurance policy on any of the Stockholders to be owned by Purchaser, the applicable Stockholders shall cooperate with Purchaser in the life insurance application process.

9.04 Cash Bonus Incentive Program.

Purchaser shall cause the Company to adopt a cash bonus incentive program, on terms substantially consistent with past practices, for the benefit of the Stockholders and Marquis’ other key managers as from time to time identified by Purchaser, as may be modified or amended from time to time by the Board of Directors of Purchaser.

10. Indemnification by Stockholders.

The Stockholders, jointly and severally, shall indemnify and defend Purchaser and its Affiliates (including Marquis and Live) and their respective Representatives (collectively, the "Purchaser Indemnitees") from and against, and shall hold each of them harmless from and against, and shall pay and reimburse each of them for, any and all Losses incurred or sustained by, or imposed upon, the Purchaser Indemnitees based upon, arising out of, with respect to, or by reason of (a) any inaccuracy in or breach of the representations and warranties set forth in Section 4 or in any certificate delivered by Stockholders pursuant to this Agreement (other than in respect of Section 4.15, it being understood that the sole remedy for any such inaccuracy in or breach thereof shall be pursuant to Section 8.05); (b) any breach or non-fulfillment of any covenant, agreement, or obligation to be performed by Sellers pursuant to this Agreement (excluding (i) covenants, agreements, and obligations to be performed by Marquis after the Closing and (ii) any covenant, agreement, or obligation in Section 8.05, it being understood that the sole remedy for any such breach, violation, or failure shall be pursuant to Section 8.05); or (c) any Liability not reflected on the Closing Date Balance Sheet; subject to the following terms and conditions, as applicable. Any such Losses shall be limited to the amount thereof that remains after deducting therefrom (i) any Tax Benefits actually realized and to the extent utilized by Purchaser Indemnitees in the computation of their taxable income in the year of the Loss and the first two (2) subsequent years following the year of the Loss and (ii) any insurance proceeds actually received by the Purchaser Indemnitee in respect of any such claim, less any related costs and expenses, including the aggregate cost of pursuing any related insurance claims and any related increases in insurance premiums or other chargebacks.

10.01 No Claim for Indemnification until Loss exceeds \$100,000.

There shall be no claim for indemnification under clause (a) of the opening paragraph above of this Section 10 until the Loss, individually or in the aggregate, in respect of indemnification under such clause (a) exceeds One Hundred Thousand Dollars (\$100,000), but once that Loss threshold is achieved, all Losses shall be subject to Indemnification from the first dollar. Notwithstanding the foregoing, the limitation set forth in this Section 10.01 shall not apply to Losses based upon, arising out of, with respect to, or by reason of any inaccuracy in or breach of any representation or warranty in Section 4.01, Section 4.02, Section 4.03, Section 4.19, Section 4.21, and Section 4.24. For purposes of this Section 10, any inaccuracy in or breach of any representation or warranty shall be determined without regard to any materiality or other similar qualification contained in or otherwise applicable to such representation or warranty.

10.02 Survival.

The representations and warranties contained in Section 4 (other than any representations or warranties contained in Section 4.15, which are subject to Section 8.05) shall survive the Closing and shall remain in full force and effect until the date that is two years from the Closing Date; *provided, that* the representations and warranties in (a) Section 4.01, Section 4.02, Section 4.03, and Section 4.24, shall survive indefinitely and (b) Section 4.19 and Section 4.21 shall survive for the full period of all applicable statutes of limitations (giving effect to any waiver, mitigation, or extension thereof) plus 60 days. All covenants and agreements of the Sellers contained herein (other than any covenants or agreements contained in Section 8.05, which are subject to Section 8.05) shall survive the Closing indefinitely or for the period explicitly specified therein; and *provided, further*, that a claim based upon intentional fraud on the part of the Sellers shall survive indefinitely. Notwithstanding the foregoing, any claims asserted in good faith with reasonable specificity (to the extent known at such time) and in writing by notice from any Purchaser Indemnitee to the Stockholders' Representative prior to the expiration date of the applicable survival period set forth in this Section 10.02 shall not thereafter be barred by the expiration of the relevant representation or warranty and such claims shall survive until finally resolved.

10.03 Environmental Indemnification.

There shall be no claim for indemnification for any environmental condition reflected on any Environmental Reports delivered to Purchaser prior to the Closing Date. Notwithstanding the above, the Artisans Property and all Environmental Reports delivered to Purchaser relating to the Artisans Property are excluded from this Section 10.03. The Parties acknowledge that their agreements regarding indemnification for environmental matters in respect of the Artisans Property are set forth in the Artisans Lease.

10.04 Title Commitments.

Without limiting any claim against the Stockholders by any Purchaser Indemnitee that Sellers failed to perform their obligations under Section 8.06, there shall be no claim for indemnification for any exception to the title of the Real Property set forth in the Title Commitments or any Survey of the Real Property commissioned by Purchaser or in connection with the Financing.

10.05 Indemnification Procedures.

The Purchaser Indemnitee making a claim under this Section 10 is referred to as the “Indemnified Party.”

10.05.01 Third-Party Claims.

If any Indemnified Party receives notice of the assertion or commencement of any Proceeding made or brought by any Person who is not a Party or an Affiliate of a Party or a Representative of the foregoing (a “Third-Party Claim”) against such Indemnified Party with respect to which the Stockholders are obligated to provide indemnification under this Section 10, the Indemnified Party shall give the Stockholders’ Representative reasonably prompt written notice thereof, but in any event not later than thirty (30) days after receipt of such notice of such Third-Party Claim. The failure to give such prompt written notice shall not, however, relieve the Stockholders of their indemnification obligations, except and only to the extent that the Stockholders forfeit rights or defenses by reason of such failure. Such notice by the Indemnified Party shall describe the Third-Party Claim in reasonable detail, shall include copies of all material written evidence thereof and shall indicate the estimated amount, if reasonably practicable, of the Loss that has been or may be sustained by the Indemnified Party. The Stockholders’ Representative, on behalf of the Stockholders, shall have the right to assume the defense of any Third-Party Claim at the Stockholders’ expense and by the Stockholders’ own counsel so long as (i) the Stockholders’ Representative gives written notice to the Indemnified Party within fifteen (15) days after it has been notified of the Third-Party Claim that he will defend the Indemnified Party against the Third-Party Claim and the Stockholders’ Representative, on behalf of the Stockholders, acknowledges the obligation of the Stockholders to indemnify the Indemnified Party for Losses related to such Third-Party Claim, (ii) the Third-Party Claim involves only money damages and does not seek an injunction or other equitable relief against the Indemnified Party, (iii) the Indemnified Party has not been advised by counsel that a conflict exists between the Indemnified Party and the Stockholders in connection with conducting the defense of the Third-Party Claim, (iv) the Third-Party Claim does not relate to or otherwise arise in connection with any criminal or regulatory enforcement action, and (v) the Stockholders’ Representative conducts the defense of the Third Party Claim diligently; *provided, that* the Stockholders’ Representative shall not, without the Indemnified Party’s written consent (which consent shall not be unreasonably withheld, delayed, denied, or conditioned), settle or compromise any Third-Party Claim or consent to entry of any judgment, which settlement, compromise, or judgment (x) by its terms does not obligate the Stockholders to pay the full amount of any Losses in connection with such Third-Party Claim, (y) requires any payment or other action by, or limitation on, any Indemnified Party, or (z) does not include the giving by the claimant to the Indemnified Party a full release from all liability in respect of such Third-Party Claim. In the event that the Stockholders’ Representative does not, within fifteen (15) days of its receipt of notice of a Third-Party Claim pursuant to clause (i) above of this Section 10.05.01, elect to undertake such defense or opposition, the Indemnified Party may undertake the defense, opposition, compromise, or settlement of such Third-Party Claim with counsel selected by it at the Stockholders’ cost. If the Indemnified Party defends any Third-Party Claim pursuant to the preceding sentence or pursuant to subclauses (ii) – (v) above of this Section 10.05.01, then the Stockholders shall promptly reimburse the Indemnified Party for the reasonable costs and expenses of defending such Third-Party Claim upon submission of periodic bills. Notwithstanding anything herein to the contrary, in the event that the Stockholders’ Representative undertakes the defense of or opposition to any Third-Party Claim pursuant to this Section 10.05.01, the Indemnified Party, by counsel of its own choosing and, at its sole cost and expense, shall have the right to participate in the defense, opposition, compromise, or settlement of, and consult with the Stockholders’ Representative and his counsel concerning, such Third-Party Claim and the Stockholders’ Representative and the Indemnified Party and their respective counsel shall cooperate in good faith with respect to such Third-Party Claim.

10.05.02 Authority of Stockholders’ Representative.

The Stockholders’ Representative shall administer any Losses claimed against the Stockholders pursuant to this Section 10. For all purposes under this Section 10, the Stockholders’ Representative shall be the exclusive agent and shall act on behalf of all Stockholders and all such actions of Stockholders’ Representative hereunder shall bind all Stockholders.

10.06 [Omitted].

10.07 Payments.

Once a Loss is finally determined to be payable by the Stockholders pursuant to this Agreement, the Stockholders shall satisfy their indemnification obligations within five (5) Business Days after such determination. All indemnification payments made under this Section 10 shall be treated by the Parties as an adjustment to the Purchase Price for Tax purposes, unless otherwise required by Law.

10.08 Offset.

The Purchaser Indemnitee seeking indemnification for a claim finally determined pursuant to this Section 10 (or Purchaser in the case of any payment owed to Purchaser by the Stockholders pursuant to Section 2.05) may, in the following priority: (i) offset it against any payments due the Artisan's Lessor under the Artisans Lease; (ii) offset it against any payments due Stockholders under the Operating Agreement; (iii) offset it against any payments due Stockholders under the Employment Agreements; and then (iv) cause such indemnification claim to be satisfied by causing the Stockholders to transfer Member Interests to the Purchaser Indemnitee with a book value equal to the amount of such indemnification claim (with such book value being determined in the manner other book value determinations are made in accordance with the Operating Agreement).

10.09 No Circular Recovery.

Each Stockholder hereby agrees that he will not make any claim for indemnification against any Purchaser Indemnitee by reason of the fact that any Stockholder or any of his Affiliates was a controlling person, director, employee, or representative of Marquis or was serving as such for another Person at the request of Marquis (whether such claim is for Losses of any kind or otherwise) with respect to any claim brought by a Purchaser Indemnitee against Stockholders under this Agreement or otherwise relating to this Agreement. With respect to any claim brought by a Purchaser Indemnitee against the Stockholders under this Agreement or otherwise relating to this Agreement, each Stockholder expressly waives any right of subrogation, contribution, advancement, indemnification, or other claim against Marquis with respect to any amounts owed by the Stockholders pursuant to this Section 10 or otherwise.

11. Indemnification by Live and Purchaser.

Live and Purchaser, jointly and severally, shall indemnify Stockholders from any Loss arising from any breach of Purchaser's representations and warranties set forth in Section 5 and Live's and Purchaser's covenants set forth in Section 7.

12. Conditions to Close.

12.01 Purchaser's Conditions to Close.

Purchaser shall have no obligation to close the transactions contemplated by this Agreement unless and until the following conditions precedents are satisfied or waived in writing by Purchaser or Live:

12.01.01 Financing.

Purchaser shall have consummated the Financing on terms acceptable to Purchaser, in its sole and absolute discretion.

12.01.02 Bring-down of Representations and Warranties; Compliance with Agreement; Stockholders' Closing

Certificate.

- (a) Other than the representations and warranties of the Sellers contained in Section 4.01, Section 4.02, Section 4.03, Section 4.05, and Section 4.24, the representations and warranties of Sellers contained in this Agreement and any certificate or other writing delivered pursuant hereto shall be true and correct in all respects (in the case of any representation or warranty qualified by materiality or Material Adverse Effect) or in all material respects (in the case of any representation or warranty not qualified by materiality or Material Adverse Effect) on and as of the date hereof and on and as of the Closing Date with the same effect as though made on and as of such date (except those representations and warranties that address matters only as of a specified date, the accuracy of which shall be determined as of that specified date in all respects). The representations and warranties of Sellers contained in Section 4.01, Section 4.02, Section 4.03, Section 4.05, and Section 4.24 shall be true and correct in all respects on and as of the date hereof and on and as of the Closing Date with the same effect as though made on and as of such date (except those representations and warranties that address matters only as of a specified date, the accuracy of which shall be determined as of that specified date in all respects).

- (b) Sellers shall have duly performed and complied in all material respects with all agreements, covenants, and conditions required by this Agreement to be performed or complied with by them prior to or on the Closing Date.
- (c) The Stockholders shall have executed and delivered to Purchaser a certificate, dated the Closing Date (the "Stockholders' Certificate"), certifying that each of the conditions set forth in Section 12.01.02(a) and 12.01.02(b) have been satisfied.

12.01.03 Environmental Reports.

Purchaser is satisfied, in its sole and absolute discretion, with the Environmental Reports.

12.01.04 Title Commitments.

Purchaser is satisfied, in its sole and absolute discretion, with the Title Commitments and Surveys.

12.01.05 Execution and Delivery of the Other Transaction Documents.

Purchaser shall have received true and complete copies of the following: (i) the Employment Agreements executed by the Stockholders; (ii) the Operating Agreement executed by the Stockholders; and (iii) the Artisans Lease duly executed by Artisans Lessor and Constellation.

12.01.06 Other Deliveries.

The Stockholders shall have delivered the following to Purchaser: (i) share certificates representing the Stock, free and clear of Encumbrances, endorsed in blank or accompanied by stock powers or other instruments of transfer duly executed in blank; (ii) current "good standing" certificates for Marquis; (iii) a Secretary's Certificate from Marquis certifying (A) that attached thereto are true and complete copies of all resolutions adopted by the board of directors and Stockholders authorizing the execution, delivery, and performance of this Agreement and the other Transaction Documents and the consummation of the Transactions, and that all such resolutions are in full force and effect and are all the resolutions adopted in connection with the Transactions and (B) as to the names and signatures of the officers of the Company authorized to sign this Agreement, the Transaction Documents, and the other documents to be delivered hereunder and thereunder; (iv) resignations of the directors of Marquis and the directors of Constellation; (v) a certificate from each Stockholder pursuant to Treasury Regulations Section 1.1445-2(b) that such Stockholder is not a foreign person within the meaning of Section 1445 of the Code; (vi) the certificate contemplated under Section 2.06.03(b); (vii) a Stockholder Release from each Stockholder, dated the Closing Date, in the form of Exhibit H (collectively, the "Stockholder Releases"); and (viii) such other documents or instruments as Purchaser or Live reasonably requests and are reasonably necessary to consummate the transactions contemplated by this Agreement.

12.01.07 No Proceedings.

No Proceeding shall have been commenced or threatened against Purchaser, Live, any of their respective Affiliates, or any Seller (i) involving any challenge to, or seeking damages or other relief in connection with, any of the Transactions or (ii) that may have the likely effect of preventing, delaying, making illegal, or otherwise interfering with any of the Transactions. No Order shall have been issued by any Governmental Body, and be in effect, which restrains or prohibits any of the Transactions. There shall not have been made or threatened by any Person any claim asserting that such Person (i) is the holder or the beneficial owner of, or has the right to acquire or to obtain beneficial ownership of, any capital stock of, or any other voting, equity, or ownership interest in, the Company or any Subsidiary thereof, or (ii) is entitled to all or any portion of the Purchase Price.

12.01.08 Third-party Consents.

All Consents that are listed on Schedule 4.04 shall have been received, and executed counterparts thereof shall have been delivered to Purchaser at or prior to the Closing.

12.01.09 Acquisition of Minority Interest in SF Commercial.

The Company shall have acquired all of the minority interest in SF Commercial that it does not currently own.

12.01.10 Due Diligence.

Purchaser shall be satisfied, in its sole and absolute discretion, with the results of its due diligence investigation of Marquis and the Business.

12.01.11 Termination of Stockholders' Agreement.

The Stockholders shall have effected a termination and waiver of the Stockholders' Agreement disclosed on Schedule 4.02, in form and substance acceptable to Purchaser.

12.02 Sellers' Conditions to Close.

The Stockholders shall have no obligation to close the transactions contemplated by this Agreement unless and until the following conditions precedents are satisfied or waived in writing by the Stockholders:

12.02.01 Bring-down of Representations and Warranties; Compliance with Agreement; Purchaser's Closing Certificate.

- (a) Other than the representations and warranties of Buyer contained in Section 5.01 and Section 5.04, the representations and warranties of Purchaser and Live contained in this Agreement and any certificate or other writing delivered pursuant hereto shall be true and correct in all respects (in the case of any representation or warranty qualified by materiality) or in all material respects (in the case of any representation or warranty not qualified by materiality) on and as of the date hereof and on and as of the Closing Date with the same effect as though made on and as of such date (except those representations and warranties that address matters only as of a specified date, the accuracy of which shall be determined as of that specified date in all respects). The representations and warranties of Purchaser and Live contained in Section 5.01 and Section 5.04 shall be true and correct in all respects on and as of the date hereof and on and as of the Closing Date with the same effect as though made at and as of such date.
- (b) Each of Purchaser and Live shall have duly performed and complied in all material respects with all agreements, covenants, and conditions required by this Agreement to be performed or complied with by it prior to or on the Closing Date.
- (c) Purchaser shall have executed and delivered to the Stockholders' Representative a certificate, dated the Closing Date (the "Purchaser's Certificate"), certifying that (i) each of the conditions set forth in Section 12.02.01(a) and 12.02.02(b) have been satisfied and (ii) that Purchaser has received the Live Contribution Amount and the Stockholders' Contribution Amount from Live pursuant to Section 2.06.04.

12.02.02 Purchaser's Financing. Purchaser shall have consummated its financing for the following credit facilities: (a) a \$22,787,662 senior credit facility consisting of (i) a \$15,000,000 revolving credit facility and (ii) a term loan of up \$7,787,662; and (b) up to \$7,000,000 of senior subordinated term debt.

12.02.03 Execution and Delivery of the Other Transaction Documents.

The Stockholders' Representative shall have received true and complete copies of the following: (i) the Employment Agreements executed by the Company and (ii) the Operating Agreement executed by Purchaser and Live.

12.02.04 Other Deliveries.

Purchaser shall have (a) made the payments of the Base Purchase Price pursuant to Section 2.06.03, (b) issued the Member Interests to the Stockholders, and (c) delivered the following to the Stockholders' Representative: (i) a current good standing certificate for Purchaser and (ii) a Secretary's Certificate from Purchaser certifying (A) that attached thereto are true and complete copies of all resolutions adopted by the sole member or board of directors of Purchaser authorizing the execution, delivery, and performance of this Agreement and the other Transaction Documents and the consummation of the Transactions, and that all such resolutions are in full force and effect and are all the resolutions adopted in connection with the Transactions and (B) as to the names and signatures of the officers of Purchaser authorized to sign this Agreement, the Transaction Documents and the other documents to be delivered hereunder and thereunder.

12.02.05 No Order.

No Order shall have been issued by any Governmental Body, and be in effect, that restrains or prohibits any material transaction contemplated hereby.

13. Termination.

13.01 Termination.

This Agreement may be terminated at any time prior to the Closing:

- (a) by the mutual written consent of Purchaser and the Stockholders' Representative;
- (b) by Purchaser or Live by written notice to the Stockholders' Representative if: (i) neither Purchaser nor Live is then in material breach of any provision of this Agreement and there has been a breach, inaccuracy in, or failure to perform any representation, warranty, covenant, or agreement made by any Seller pursuant to this Agreement that would give rise to the failure of any of the conditions specified in Section 12.01 and such breach, inaccuracy, or failure has not been cured by Sellers within ten (10) days of the Stockholders' Representative receipt of written notice of such breach from Purchaser or Live or (ii) any of the conditions set forth in Section 12.01 shall not have been, or if it becomes apparent that any of such conditions will not be, fulfilled by July 31, 2015, unless such failure shall be due to the failure of Purchaser or Live to perform or comply with any of the covenants, agreements, or conditions hereof to be performed or complied with by it prior to the Closing;
- (c) by the Stockholders' Representative by written notice to Purchaser if: (i) no Seller is then in material breach of any provision of this Agreement and there has been a breach, inaccuracy in, or failure to perform any representation, warranty, covenant, or agreement made by Purchaser or Live pursuant to this Agreement that would give rise to the failure of any of the conditions specified in Section 12.02 and such breach, inaccuracy, or failure has not been cured by Purchaser or Live within ten (10) days of its receipt of written notice of such breach from Sellers or (ii) any of the conditions set forth in Section 12.02 shall not have been, or if it becomes apparent that any of such conditions will not be, fulfilled by July 31, 2015, unless such failure shall be due to the failure of any Seller to perform or comply with any of the covenants, agreements, or conditions hereof to be performed or complied with by it prior to the Closing; or
- (d) by Purchaser or Live, on the one hand, or the Stockholders' Representative, on the other hand, in the event that (i) there shall be any Law that makes consummation of the Transactions illegal or otherwise prohibited or (ii) any Governmental Body shall have issued an Order restraining or enjoining the Transactions and such Order shall have become final and non-appealable.

13.02 Effect of Termination.

In the event of the termination of this Agreement in accordance with this Section 13.01, this Agreement shall forthwith become void and there shall be no liability on the part of any Party except: (a) as set forth in this Section 13 or in Section 14 hereof and (b) that nothing herein shall relieve any Party from liability for any breach of any provision hereof or fraud or intentional misrepresentation.

14. Miscellaneous.

14.01 Titles Descriptive; Interpretation.

Titles and headings are descriptive and not substantive parts of this Agreement. Where the context so requires or permits, the use of the singular form includes the plural, and the use of the plural form includes the singular. For purposes of this Agreement, (a) the words "include," "includes," and "including" shall be deemed to be followed by the words "without limitation"; (b) the word "or" is not exclusive; and (c) the words "herein," "hereof," "hereby," "hereto," and "hereunder" refer to this Agreement as a whole. Unless the context otherwise requires, references herein: (i) to Sections, Schedules, and Exhibits mean the Sections of, and Schedules and Exhibits attached to, this Agreement; (ii) to an agreement, instrument, or other document means such agreement, instrument, or other document as amended, supplemented, and modified from time to time to the extent permitted by the provisions thereof; and (iii) to a statute means such statute as amended from time to time and includes any successor legislation thereto and any regulations promulgated thereunder. The Schedules and Exhibits referred to herein shall be construed with, and as an integral part of, this Agreement to the same extent as if they were set forth verbatim herein. Any matter or item disclosed on one Schedule shall not be deemed to have been disclosed on any other Schedule unless an explicit cross-reference is set forth thereon. Any capitalized term used but not defined in any Schedule shall have the meaning given to such term in this Agreement.

14.02 Negotiated Agreement.

The Parties have each been represented by counsel of their choice and this Agreement has been negotiated and shall not be construed against one Party or the other.

14.03 No Third-Party Beneficiaries; No Recourse to Financing Sources.

Except for the Purchaser Indemnities, this Agreement does not confer any rights or remedies upon any Person (including any employee of Marquis) other than the Parties and their respective successors and permitted assigns. Notwithstanding the foregoing, each financing source for the Financing shall be an express third-party beneficiary with respect to the second paragraph of this Section 14.03 and the second paragraph of Section 14.08 (the "FS Provisions").

Subject to the rights of the parties to any Contract entered into in connection with the Financing, none of the Parties, nor any of their respective Affiliates, solely in their respective capacities as parties to this Agreement, shall have any rights or claims against any financing source for the Financing or any Affiliate thereof, solely in their respective capacities as lenders or arrangers in connection with the Financing, and such financing sources, solely in their respective capacities as lenders or arrangers, shall not have any rights or claims against any Party or any Affiliate thereof, in connection with this Agreement or the Financing, whether at law or equity, in contract, in tort, or otherwise.

14.04 Governing Law.

This Agreement shall be governed by Georgia law without regard to its choice of law provisions.

14.05 Severability.

If any portion of this Agreement is held illegal or unenforceable, such portion or portions shall be absolutely and completely severable from all other provisions of this Agreement, and such other provisions shall constitute the agreement of the Parties with respect to the subject matter hereof. On such determination that a portion of this Agreement is illegal or unenforceable, the Parties shall negotiate in good faith to modify this Agreement so as to effect the original intent of the Parties as closely as possible in a mutually acceptable manner in order that the transactions contemplated hereby be consummated as originally contemplated to the greatest extent possible.

14.06 Notice.

Any notices, requests, consents, claims, demands, waivers, and other communications under this Agreement shall be in writing and shall be deemed to have been duly given if (i) delivered in person, (ii) mailed, postage prepaid, by certified or registered mail with return receipt requested, (iii) transmitted by facsimile or e-mail (with confirmation of transmission) during regular business hours during a business day, or (iv) sent by FedEx Express or other nationally recognized overnight courier service, or overnight Priority Mail Express of the U.S. Postal Service, postage prepaid, to the Party at the physical or e-mail address or facsimile number shown below. Notices personally delivered in accordance with clause (i) above shall be deemed to have been given on the date so delivered; notices mailed in accordance with clause (ii) above shall be deemed to have been given on the date three (3) Business Days after the date posted; notices transmitted in accordance with clause (iii) above shall be deemed delivered on the same Business Day, if sent during regular business hours, and, if not, on the next Business Day; and notices sent in accordance with clause (iv) above shall be deemed to have been given on the next Business Day after delivery to the courier or U.S. Postal Service (in time for next day delivery).

If to Purchaser or Live: Live Ventures Inc.
325 East Warm Springs Road
Suite 102
Las Vegas, Nevada 89119
Attention: Jon Isaac
Email: j.isaac@isaac.com

With a copy (which shall not constitute notice) to:

Baker & Hostetler LLP
600 Anton Boulevard
Suite 900
Costa Mesa, California 92626
Attention: Randolph W. Katz
Email: rwkatz@bakerlaw.com

If to Marquis: Marquis Industries, Inc.
P.O. Box 1308
Chatsworth, GA 30705
Attention: Timothy A. Bailey
Email: tbailey@marquisind.com

With a copy (which shall not constitute notice) to:

Edward Hine, Jr.
Edward Hine, Jr., P.C.
P. O. Box 5128
Rome, GA 30162-5128
Email: ed@edwardhinelaw.com

If to the Stockholders' Representative:

Timothy A. Bailey
P.O. Box 1308
Chatsworth, GA 30705
Email: tbailey@marquisind.com

With a copy (which shall not constitute notice) to:

Edward Hine, Jr.
Edward Hine, Jr., P.C.
P. O. Box 5128
Rome, GA 30162-5128
Email: ed@edwardhinelaw.com

14.07 Counterparts and Signatures.

This Agreement may be executed in counterparts, each of which shall for all purposes be deemed an original, and all of such counterparts shall together constitute one and the same agreement. The Agreement may be executed via signature exchanged by facsimile or pdf, which signature shall be as valid as an original.

14.08 Arbitration.

The Parties have agreed that any dispute arising out of or relating to this Agreement (a "Dispute") shall be resolved in accordance with the procedures set forth in this Section 14.08. Until completion of such procedures, no Party may take any action not contemplated herein to force a resolution of the Dispute by any judicial, arbitral, or similar process, except to the limited extent necessary to (i) avoid expiration of a claim that might eventually be permitted hereby or (ii) obtain interim relief, including injunctive relief, to preserve the status quo or prevent irreparable harm. All communications between the Parties or their Representatives in connection with the attempted resolution of any Dispute shall be confidential and deemed to have been delivered in furtherance of Dispute settlement and shall be exempt from discovery and production, and shall not be admissible in evidence (whether as an admission or otherwise) in any arbitral or other proceeding for the resolution of the Dispute or otherwise. Disputes shall be finally settled by arbitration before a single arbitrator using the Commercial Arbitration Rules of the American Arbitration Association ("AAA") as then in effect (the "Arbitration Rules"), as modified by and subject to the provisions of this Section 14.08. The arbitration shall take place in Atlanta, Georgia. Any court of competent jurisdiction shall have authority to enter its order enforcing the award of the arbitrator, which shall be final and binding on the Disputing Parties, subject to the following sentence. Notwithstanding anything to the contrary in this Section 14.10, the parties hereto agree: that the Underlying Award may be appealed pursuant to the AAA's Optional Appellate Arbitration Rules (the "Appellate Rules"); that the Underlying Award rendered by the arbitrator shall, at a minimum, be a reasoned award; and that the Underlying Award shall not be considered final until after the time for filing the notice of appeal pursuant to the Appellate Rules has expired. Any such appeal must be initiated within thirty (30) days of receipt of an Underlying Award by filing a notice of appeal pursuant to the Appellate Rules with any AAA office. Following the appeal process, the decision rendered by the appeal tribunal may be entered in any court having jurisdiction thereof.

On receipt of a notice of a Dispute, the Parties involved in the Dispute (each, a "Disputing Party") shall initially participate in a mandatory mediation period. In the event that such mediation does not resolve the Dispute within ten (10) days (or any mutually agreed extension thereof), the arbitration process shall be commenced by the initiating Disputing Party giving written notice to the other Disputing Party of its intention to arbitrate (a "Demand"). The Dispute shall be decided by one arbitrator designated by the Disputing Parties as follows. If the Disputing Parties are able to agree upon such arbitrator within twenty-one (21) days after the Demand has been received by one Disputing Party from the initiating Disputing Party, the Dispute shall be submitted to such arbitrator. If the Disputing Parties are unable so to agree upon such arbitrator within such period for any reason, AAA is authorized hereby to select an arbitrator within ten (10) days after the expiration of such twenty-one (21)-day period, which selection shall be made in accordance with the Arbitration Rules. The administrative fee of AAA and the compensation and all other costs and expenses of the arbitrator shall be paid by the Disputing Party that is not the substantially prevailing Disputing Party in the Dispute and the substantially prevailing Disputing Party in the Dispute shall be entitled to recover from the other Disputing Party (and the arbitrator may so award the substantially prevailing Disputing Party) any or all fees, costs, and expenses incurred by the substantially prevailing Disputing Party in connection with the Dispute, including reasonable attorneys' fees.

Notwithstanding anything in this Section 14.08 to the contrary, each of the Parties agrees that it will not bring or support any Proceeding (whether at law, in equity, in contract, in tort, or otherwise) against the financing sources for the Financing or any other Persons that have committed to provide or otherwise entered into agreements in connection with the Financing or other financings in connection with the transactions contemplated hereby in any way relating to this Agreement or any of the transactions contemplated by this Agreement, in any forum other than the federal and state courts located in Atlanta, Georgia (and appellate courts thereof). The provisions of this paragraph shall be enforceable by each financing source, its Affiliates, and their respective successors and permitted assigns.

14.09 Expenses.

Except as otherwise expressly provided herein, all costs and expenses, including fees and disbursements of legal counsel and other Representatives, incurred in connection with this Agreement and the transactions contemplated hereby shall be paid by the party incurring such costs and expenses; *provided, however*, that the Purchaser shall be responsible for the reasonable out-of-pocket and documented expenses (including reasonable attorneys' fees and expenses) incurred by the Sellers or Live in connection with the preparation, negotiation, execution, and delivery of this Agreement (excluding any and all investment banking or broker fees, commissions, and expenses payable by any Seller or any Affiliate thereof in connection with the transactions contemplated by this Agreement).

14.10 Representations, Warranties, and Covenants to Survive.

Subject to Section 10.02, all representations, warranties, and covenants of any Party shall survive the Closing.

14.11 No Waiver; Amendment.

No waiver shall be effective against any Party unless signed by the Party against whom the waiver is asserted. No amendment to this Agreement shall be effective unless signed by all Parties. No waiver by any party shall operate or be construed as a waiver in respect of any failure, breach, or default not expressly identified by such written waiver, whether of a similar or different character, and whether occurring before or after that waiver. No failure to exercise, or delay in exercising, any right, remedy, power, or privilege arising from this Agreement shall operate or be construed as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power, or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power, or privilege. Notwithstanding anything to the contrary in this Section, no FS Provision may be amended or waived without the consent of the financing sources for the Financing.

14.12 Time is of the Essence.

Time is of the essence in the performance of this Agreement.

14.13 Specific Performance.

Each Party acknowledges that the other Parties would be damaged irreparably and would have no adequate remedy of law if any provision of this Agreement is not performed in accordance with its specific terms or otherwise is breached. Accordingly, each Party agrees that the other Parties will be entitled to an injunction to prevent any breach of any provision of this Agreement and to enforce specifically any provision of this Agreement, in addition to any other remedy to which they may be entitled and without having to prove the inadequacy of any other remedy they may have at law or in equity and without being required to post bond or other security.

14.14 Entire Agreement.

This Agreement and the other Transaction Documents are the sole and entire agreement among the Parties as to the matters addressed herein and therein and supersede all prior and contemporaneous understandings and agreements, both written and oral, with respect to such subject matter. In the event of any inconsistency between the statements in the body of this Agreement and those in the other Transaction Documents, the Exhibits, and Schedules (other than an exception expressly set forth as such in the Schedules), the provisions of this Agreement will control.

14.15 Successors and Assigns.

This Agreement shall be binding upon and shall inure to the benefit of the Parties and their respective successors and permitted assigns. No Party may assign his or its rights or obligations hereunder without the prior written consent of the other Parties, which consent shall not be unreasonably withheld, delayed, denied, or conditioned; *provided, however*, that Purchaser may collaterally assign any or all of its rights and obligations hereunder to any provider of debt financing to it or any of its Affiliates. No assignment shall relieve the assigning party of any of its obligations hereunder.

14.16 Authority and Rights of Stockholders' Representative.

By executing this Agreement, each Stockholder appoints Bailey as the Stockholders' Representative for all purposes under this Agreement and authorizes the Stockholders' Representative to act as his attorney in fact on behalf of such Stockholder and in such Stockholder's name to carry out the functions assigned to the Stockholders' Representative in this Agreement and any other agreements, certificates, or notices to be delivered pursuant to this Agreement. Any Contract, notice, waiver, or other arrangement signed by Stockholders' Representative shall be binding and enforceable against each Stockholder as if such Stockholder were a signatory thereto.

14.17 Certain Legal Matters.

The Sellers (i) acknowledge that Baker & Hostetler LLP has represented Purchaser and Live and their respective Affiliates in connection with the transactions contemplated by this Agreement and the other Transaction Documents and (ii) consent to the representation by Baker & Hostetler LLP of Purchaser and Live and their respective Affiliates in any future matter, including post-closing Disputes concerning this Agreement and all Transactions.

Purchaser and Live (i) acknowledge that Edward Hine, Jr., P.C. has represented Sellers and their respective Affiliates in connection with the transactions contemplated by this Agreement and the other Transaction Documents and (ii) consent to the representation by Edward Hine, Jr., P.C. of the Sellers and their respective Affiliates in any future matter, including post-closing Disputes concerning this Agreement and all Transactions.

[Signature pages follow.]

IN WITNESS WHEREOF, the Parties have executed and delivered this Agreement as of the date first written above.

Live:

Live Ventures Inc.

By: /s/ Jon Isaac
Jon Isaac, President and Chief Executive Officer
[Corporate Seal]

Purchaser:

Marquis Affiliated Holdings LLC

By: /s/ Jon Isaac
Jon Isaac, President and Chief Executive Officer
[Company Seal]

Company:

Marquis Industries, Inc.

By: /s/ Timothy A. Bailey
Timothy A. Bailey, CEO, C.O.B
[Corporate Seal]

Stockholders:

/s/ Timothy A. Bailey
(L.S.)
Timothy A. Bailey

/s/ Larry Heckman
(L.S.)
Larry Heckman

/s/ David Stokes
(L.S.)
David Stokes

/s/ Mark Rowland
(L.S.)
Mark Rowland

Stockholders' Representative:

/s/ Timothy A. Bailey
(L.S.)
Timothy A. Bailey

Exhibit A

Form of Artisans Lease

(attached)

Exhibits B-E

Forms of Employment Agreements

(attached)

Exhibit F

Form of Operating Agreement

(attached)

Exhibit H

Form of Stockholder Release

(attached)

LOAN AND SECURITY AGREEMENT

Dated as of July 6, 2015

**MARQUIS AFFILIATED HOLDINGS LLC,
MARQUIS INDUSTRIES, INC.,
A-O INDUSTRIES, LLC,
ASTRO CARPET MILLS, LLC,
CONSTELLATION INDUSTRIES, LLC,
and
S F COMMERCIAL PROPERTIES, LLC,**

as Borrowers

BANK OF AMERICA, N.A.,

as Lender

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LOAN AND SECURITY AGREEMENT

THIS LOAN AND SECURITY AGREEMENT is dated as of July 6, 2015, among **MARQUIS AFFILIATED HOLDINGS LLC**, a Delaware limited liability company ("Holdings"), **MARQUIS INDUSTRIES, INC.**, a Georgia corporation ("Marquis"), **A-O INDUSTRIES, LLC**, a Georgia limited liability company ("A-O"), **ASTRO CARPET MILLS, LLC**, a Georgia limited liability company ("Astro"), **CONSTELLATION INDUSTRIES, LLC**, a Georgia limited liability company ("Constellation"), and **S F COMMERCIAL PROPERTIES, LLC**, a Georgia limited liability company ("SF Commercial"; and together with Holdings, Marquis, A-O, Astro and Constellation, collectively, "Borrowers" and each individually, a "Borrower"), and **BANK OF AMERICA, N.A.**, a national banking association ("Lender").

RECITALS:

On the date of this Agreement, Holdings acquired all of the capital stock of Marquis (the "Marquis Acquisition") pursuant to that certain Purchase Agreement, dated July 6, 2015, by and among Live Ventures Inc., a Nevada corporation ("Live Ventures"), Marquis, all of its stockholders, Timothy A. Bailey, a Georgia resident, ("Bailey"), Larry Heckman, a Georgia resident ("Heckman"), David Stokes, a Georgia resident ("Stokes"), and Mark Rowland, a Georgia resident ("Rowland", with Bailey, Heckman, Stokes, and Rowland, individually and interchangeably, a "Seller", and, in the aggregate, the "Sellers"), and Holdings (such agreement, as amended, restated, supplemented or otherwise modified from time to time, the "Marquis SPA" and, together with each other material agreement, instrument, certificates, schedule, exhibit, annex and rider executed in connection therewith or contemplated thereby, collectively, the "Marquis SPA Documents").

The Marquis Acquisition was funded solely with proceeds from (a) the Loans (as defined below), (b) term loan indebtedness from Isaac Capital Fund I, LLC, a Georgia limited liability company ("Mezzanine Lender"), in an amount equal to \$7,000,000 (the "Mezzanine Debt") pursuant to that certain Loan Agreement dated as of the date hereof by and among Mezzanine Lender and Borrowers (the "Mezzanine Loan Agreement" and, together with all of the documents, agreements, instruments, certificates, schedules, exhibits, annexes and riders executed in connection therewith or contemplated thereby, in each case as amended, restated, supplemented or otherwise modified from time to time in accordance with the terms of the Debt and Lien Subordination Agreement (as defined below), collectively, the "Mezzanine Debt Documents") and (c) an equity contribution from, among others, Live Ventures, Bailey, Heckman, Stokes, and Rowland, in an aggregate amount not less than \$6,000,000.00 (the "Equity Contribution" and, all of the documents, agreements, instruments, certificates, schedules, exhibits, annexes and riders executed in connection therewith or contemplated thereby, collectively, the "Equity Contribution Documents").

Borrowers have requested that Lender provide a credit facility to Borrowers to finance their mutual and collective business enterprise. Lender is willing to provide the credit facility on the terms and conditions set forth in this Agreement.

NOW, THEREFORE, for valuable consideration hereby acknowledged, the parties agree as follows:

SECTION 1. DEFINITIONS; RULES OF CONSTRUCTION

1.1. Definitions. As used herein, the following terms have the meanings set forth below:

Account: as defined in the UCC, including all rights to payment for goods sold or leased, or for services rendered.

Account Debtor: a Person obligated under an Account, Chattel Paper or General Intangible.

Accounts Formula Amount: 85% of the Value of Eligible Accounts.

Acquisition: a transaction or series of transactions resulting in (a) acquisition of a business, division or substantially all assets of a Person; (b) record or beneficial ownership of 50% or more of the Equity Interests of a Person; or (c) merger, consolidation or combination of a Borrower or Subsidiary with another Person.

Affiliate: with respect to a specified Person, another Person that directly, or indirectly through one or more intermediaries, Controls or is Controlled by or is under common Control with the Person specified. "Control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through the ability to exercise voting power, by contract or otherwise. "Controlling" and "Controlled" have correlative meanings.

Allocable Amount: as defined in **Section 5.9.3**.

Anti-Terrorism Law: any law relating to terrorism or money laundering, including the Patriot Act.

Applicable Law: all laws, rules, regulations and governmental guidelines applicable to the Person, conduct, transaction, agreement or matter in question, including all applicable statutory law, common law and equitable principles, and all provisions of constitutions, treaties, statutes, rules, regulations, orders and decrees of Governmental Authorities.

Applicable Margin: the margin set forth below, as determined by the Fixed Charge Coverage Ratio:

<u>Level</u>	<u>Fixed Charge Coverage Ratio</u>	<u>Base Rate Revolver Loans</u>	<u>LIBOR Revolver Loans</u>	<u>Base Rate Term Loans</u>	<u>LIBOR Term Loans</u>
I	>2.00 to 1.00	0.50%	1.50%	0.75%	1.75%
II	≤2.00 to 1.00 but >1.50 to 1.00	0.75%	1.75%	1.00%	2.00%
III	≤1.50 to 1.00 but >1.20 to 1.00	1.00%	2.00%	1.25%	2.25%
IV	≤1.2x	1.25%	2.25%	1.50%	2.50%

Until November 3, 2015, margins shall be determined as if Level II were applicable. Thereafter, the margins shall be subject to increase or decrease by Lender on the third Business Day of the second calendar month following each Fiscal Quarter end. If Lender is unable to calculate the Fixed Charge Coverage Ratio due to Borrowers' failure to deliver any financial statements when required hereunder, then, at the option of Lender, margins shall be determined as if Level IV were applicable until the third Business Day of the second calendar month following its receipt.

Asset Disposition: a sale, lease, license, consignment, transfer or other disposition of Property of an Obligor, including a disposition of Property in connection with a sale-leaseback transaction or synthetic lease.

Availability: the Borrowing Base minus Revolver Usage.

Availability Reserve: the sum (without duplication) of (a) the Inventory Reserve; (b) the Rent and Charges Reserve; (c) the Bank Product Reserve; (d) the aggregate amount of liabilities secured by Liens upon Collateral that are senior to Lender's Liens (but imposition of any such reserve shall not waive an Event of Default arising therefrom); (e) the Dilution Reserve; and (f) such additional reserves, in such amounts and with respect to such matters, as Lender in its Permitted Discretion may elect to impose from time to time.

Bank Product: any of the following products, services or facilities extended to an Obligor or any Subsidiary of an Obligor by Lender or any of its Affiliates: (a) Cash Management Services; (b) products under Hedging Agreements; (c) commercial credit card and merchant card services; and (d) leases and other banking products or services provided to any Obligor or any Subsidiary, other than Letters of Credit.

Bank Product Debt: Debt, obligations and other liabilities of an Obligor or any Subsidiary of an Obligor with respect to Bank Products.

Bank Product Reserve: the aggregate amount of reserves established by Lender from time to time in its Permitted Discretion in respect of Bank Product Debt.

Bankruptcy Code: Title 11 of the United States Code.

Base Rate: for any day, a per annum rate equal to the greater of (a) the Prime Rate for such day; (b) the Federal Funds Rate for such day, plus 0.50%; or (c) LIBOR for a 30 day interest period as of such day, plus 1.00%.

Base Rate Loan: any Loan that bears interest based on the Base Rate.

Base Rate Revolver Loan: a Revolver Loan that bears interest based on the Base Rate.

Board of Governors: the Board of Governors of the Federal Reserve System.

Borrowed Money: with respect to any Obligor, without duplication, its (a) Debt that (i) arises from the lending of money by any Person to such Obligor, (ii) is evidenced by notes, drafts, bonds, debentures, credit documents or similar instruments, (iii) accrues interest or is a type upon which interest charges are customarily paid (excluding trade payables owing in the Ordinary Course of Business), or (iv) was issued or assumed as full or partial payment for Property; (b) Capital Leases; (c) reimbursement obligations with respect to letters of credit; and (d) guaranties of any Debt of the foregoing types owing by another Person.

Borrower Agent: as defined in **Section 4.3**.

Borrowing: a group of Loans that are made or converted together on the same day and have the same interest option and, if applicable, Interest Period.

Borrowing Base: on any date of determination, an amount equal to the lesser of (a) the Revolver Commitment; or (b) the sum of the Accounts Formula Amount, plus the Factored Accounts Formula Amount, plus the Inventory Formula Amount, minus the Availability Reserve.

Borrowing Base Certificate: a certificate, in form reasonably satisfactory to Lender and substance satisfactory to Lender, by which Borrowers certify the Borrowing Base and certain other matters set forth therein.

Business Day: any day other than a Saturday, Sunday or other day on which commercial banks are authorized to close under the laws of, or are in fact closed in, North Carolina and Georgia, and if such day relates to a LIBOR Loan, any such day on which dealings in Dollar deposits are conducted between banks in the London interbank Eurodollar market.

Capital Expenditures: all liabilities incurred or expenditures made by a Borrower or Subsidiary for the acquisition of fixed assets, or any improvements, replacements, substitutions or additions thereto with a useful life of more than one year.

Capital Lease: any lease that is required to be capitalized for financial reporting purposes in accordance with GAAP.

Cash Collateral: cash, and any interest or other income earned thereon, that is delivered to Lender to Cash Collateralize any Obligations.

Cash Collateral Account: a demand deposit, money market or other account maintained with Lender and subject to Lender's Liens.

Cash Collateralize: the delivery of cash to Lender, as security for the payment of Obligations, in an amount equal to (a) with respect to LC Obligations, 105% of the aggregate LC Obligations, and (b) with respect to any inchoate, contingent or other Obligations (including Obligations arising under Bank Products but excluding unasserted inchoate or contingent indemnification obligations), Lender's good faith estimate of the amount due or to become due, including fees, expenses and indemnification hereunder. "Cash Collateralization" has a correlative meaning.

Cash Equivalents: (a) marketable obligations issued or unconditionally guaranteed by, and backed by the full faith and credit of, the United States government, maturing within 12 months of the date of acquisition; (b) certificates of deposit, time deposits and bankers' acceptances maturing within 12 months of the date of acquisition, and overnight bank deposits, in each case which are issued by a commercial bank (including Lender) organized under the laws of the United States or any state or district thereof, rated A-1 (or better) by S&P or P-1 (or better) by Moody's at the time of acquisition, and (unless issued by Lender) not subject to offset rights; (c) repurchase obligations with a term of not more than 30 days for underlying investments of the types described in clauses (a) and (b) entered into with any bank meeting the qualifications specified in clause (b); (d) commercial paper issued by Lender or rated A-1 (or better) by S&P or P-1 (or better) by Moody's, and maturing within nine months of the date of acquisition; and (e) shares of any money market fund that has substantially all of its assets invested continuously in the types of investments referred to above, has net assets of at least \$500,000,000 and has the highest rating obtainable from either Moody's or S&P.

Cash Management Services: services provided from time to time by Lender or any of its Affiliates to Obligors or any Subsidiary relating to operating, collections, payroll, trust, or other depository or disbursement accounts, including automated clearinghouse, e-payable, electronic funds transfer, wire transfer, controlled disbursement, overdraft, depository, information reporting, lockbox and stop payment services.

CERCLA: the Comprehensive Environmental Response Compensation and Liability Act (42 U.S.C. § 9601 et seq.).

Change in Law: the occurrence, after the date hereof, of (a) the adoption, taking effect or phasing in of any law, rule, regulation or treaty; (b) any change in any law, rule, regulation or treaty or in the administration, interpretation or application thereof; or (c) the making, issuance or application of any request, guideline, requirement or directive (whether or not having the force of law) by any Governmental Authority; provided, however, that "Change in Law" shall include, regardless of the date enacted, adopted or issued, all requests, rules, guidelines, requirements or directives (i) under or relating to the Dodd-Frank Wall Street Reform and Consumer Protection Act, or (ii) promulgated pursuant to Basel III by the Bank for International Settlements, the Basel Committee on Banking Supervision (or any similar authority) or any other Governmental Authority.

Change of Control: (a) Jon Isaac ceases to (i) own and control, beneficially and of record, directly or indirectly, at least 25% of the Equity Interests of Live (or Live Ventures after the Live Restructuring Transaction), and (ii) be the Chief Executive Officer of Live (or Live Ventures after the Live Restructuring Transaction) or the Chairman of the Board of Directors of Live (or Live Ventures after the Live Restructuring Transaction); (b) Live (or Live Ventures after the Live Restructuring Transaction) ceases to own and control, beneficially and of record, directly or indirectly, at least 80% of Holdings; (c) Holdings ceases to own and control, beneficially and of record, at least 100% of the Equity Interests of Marquis; (d) Marquis ceases to own and control, beneficially and of record, directly or indirectly, all Equity Interests in all other Borrowers (other than Holdings) except as a result of a transaction specifically permitted by this Agreement; (e) a change in the majority of directors of Holdings during any 24 month period, unless approved by the majority of directors serving at the beginning of such period; or (f) the sale or transfer of all or substantially all assets of a Borrower, except to another Borrower.

Claims: all claims, liabilities, obligations, losses, damages, penalties, judgments, proceedings, interest, costs and expenses of any kind (including remedial response costs, reasonable attorneys' fees and Extraordinary Expenses) at any time (including after Full Payment of the Obligations) incurred by any Indemnitee or asserted against any Indemnitee by any Obligor or other Person, in any way relating to (a) any Loans, Letters of Credit, Loan Documents, or the use thereof or transactions relating thereto, (b) any action taken or omitted to be taken by any Indemnitee in connection with any Loan Documents, (c) the existence or perfection of any Liens, or realization upon any Collateral, (d) exercise of any rights or remedies under any Loan Documents or Applicable Law, or (e) failure by any Obligor to perform or observe any terms of any Loan Document, in each case including all costs and expenses relating to any investigation, litigation, arbitration or other proceeding (including an Insolvency Proceeding or appellate proceedings), whether or not the applicable Indemnitee is a party thereto.

Closing Date: as defined in **Section 6.1**.

Code: the Internal Revenue Code of 1986.

Collateral: all Property described in **Section 7.1**, all Property described in any Security Documents as security for any Obligations, and all other Property that now or hereafter secures (or is intended to secure) any Obligations.

Commitment Termination Date: the earliest to occur of (a) the Revolver Termination Date; (b) the date on which Borrowers terminate the Revolver Commitment pursuant to **Section 2.1.3**; or (c) the date on which the Revolver Commitment is terminated pursuant to **Section 11.2**.

Commitments: the Revolver Commitment and Term Loan Commitment.

Commodity Exchange Act: the Commodity Exchange Act (7 U.S.C. § 1 *et seq.*).

Compliance Certificate: a certificate, in form reasonably satisfactory to Lender and substance satisfactory to Lender, by which Borrowers certify compliance with **Section 10.3** and certain other matters set forth therein.

Connection Income Taxes: Other Connection Taxes that are imposed on or measured by net income (however denominated), or are franchise or branch profits Taxes.

Contingent Obligation: any obligation of a Person arising from a guaranty, indemnity or other assurance of payment or performance of any Debt, lease, dividend or other obligation ("**primary obligations**") of another obligor ("**primary obligor**") in any manner, whether directly or indirectly, including any obligation of such Person under any (a) guaranty, endorsement, co-making or sale with recourse of an obligation of a primary obligor; (b) obligation to make take-or-pay or similar payments regardless of nonperformance by any other party to an agreement; and (c) arrangement (i) to purchase any primary obligation or security therefor, (ii) to supply funds for the purchase or payment of any primary obligation, (iii) to maintain or assure working capital, equity capital, net worth or solvency of the primary obligor, (iv) to purchase Property or services for the purpose of assuring the ability of the primary obligor to perform a primary obligation, or (v) otherwise to assure or hold harmless the holder of any primary obligation against loss in respect thereof. The amount of any Contingent Obligation shall be deemed to be the stated or determinable amount of the primary obligation (or, if less, the maximum amount for which such Person may be liable under the instrument evidencing the Contingent Obligation) or, if not stated or determinable, the maximum reasonably anticipated liability with respect thereto.

Copyright Security Agreement: that certain Copyright Security Agreement dated as of the Closing Date by and among Borrowers and Lender.

Credit Insurance Loss Payable Endorsement: a loss payable endorsement in favor of Lender from the issuer of any credit insurance with respect to Accounts of any Borrower that is reasonably acceptable to Lender.

CWA: the Clean Water Act (33 U.S.C. §§ 1251 et seq.).

Debt: as applied to any Person, without duplication, (a) all items that would be included as liabilities on a balance sheet in accordance with GAAP, including Capital Leases, but excluding trade payables incurred and being paid in the Ordinary Course of Business; (b) all Contingent Obligations; (c) all reimbursement obligations in connection with letters of credit issued for the account of such Person; and (d) in the case of a Borrower, the Obligations. The Debt of a Person shall include any recourse Debt of any partnership in which such Person is a general partner or joint venturer.

Debt and Lien Subordination Agreement: the Debt and Lien Subordination Agreement of even date herewith, between Mezzanine Lender and Lender, relating to the Mezzanine Debt.

Default: an event or condition that, with the lapse of time or giving of notice, would constitute an Event of Default.

Default Rate: for any Obligation (including, to the extent permitted by law, interest not paid when due), 2.00% plus the interest rate otherwise applicable thereto.

Deposit Account Control Agreement: a control agreement reasonably satisfactory to Lender executed by an institution maintaining a Deposit Account for an Obligor, to perfect Lender's Lien on such account.

Dilution Percent: the percent, determined for Borrowers' most recent Fiscal Quarter, equal to (a) bad debt write-downs or write-offs, discounts, returns, promotions, credits, credit memos and other dilutive items with respect to Accounts, divided by (b) gross sales.

Dilution Reserve: a reserve against Availability equal to the sum by which the Dilution Percent exceeds 5.0% multiplied by the Dollar amount of Eligible Accounts or Eligible Factoring Credit Balances, as applicable.

Distribution: any declaration or payment of a distribution, interest or dividend on any Equity Interest (other than payment-in-kind); any distribution, advance or repayment of Debt to a holder of Equity Interests; or any purchase, redemption, or other acquisition or retirement for value of any Equity Interest.

Dollars: lawful money of the United States.

Dominion Account: a special account established by Borrowers at Lender or a bank acceptable to Lender, over which Lender has exclusive control for withdrawal purposes.

EBITDA: determined on a consolidated basis for Borrowers and Subsidiaries, net income, calculated before interest expense, transaction costs associated with the Transactions not to exceed \$1,000,000, provision for income taxes, depreciation and amortization expense, gains or losses arising from the sale of capital assets, gains arising from the write-up of assets, and any extraordinary gains, losses on impairment of long-lived assets and goodwill, unrealized gains and losses resulting in changes from fair values of derivatives and financial instruments (including changes in fair value of contingent consideration related to business combinations), directly related charges related to the consummation of business combinations, non-cash severance and restructuring charges, gains arising from the write-up of assets, extraordinary gains and losses (including losses and gains from extinguishment of debt) and non-recurring expenses and income which do not represent cash items in such period (in each case, to the extent included in determining net income). For purposes of this Agreement, EBITDA and its components for the 12 months prior to the Closing Date is as shown on **Exhibit A**.

Eligible Account: an Account owing to a Borrower that arises in the Ordinary Course of Business from the sale of goods, is payable in Dollars and is deemed by Lender, in its Permitted Discretion, to be an Eligible Account. Without limiting the foregoing, no Account shall be an Eligible Account if (a) it is unpaid for more than 60 days after the original due date, or more than 90 days after the original invoice date; (b) 50% or more of the Accounts owing by the Account Debtor are not Eligible Accounts under the foregoing clause; (c) it is owing by (i) any Account Debtor (other than Menard, Inc. ("Menards") whose otherwise Eligible Accounts, in face amount, exceed 10% of the aggregate Eligible Accounts plus Eligible Factoring Credit Balances of Borrowers (or such higher percentage as Lender may establish for the Account Debtor from time to time), but only to the extent of such excess, (ii) Menards, if the otherwise Eligible Accounts of Menards, in face amount, exceed 20% of the aggregate Eligible Accounts plus Eligible Factoring Credit Balances of Borrowers (or such higher percentage as Lender may establish for Menards from time to time), but only to the extent of such excess; (d) it does not conform with a covenant or representation herein; (e) it is owing by a creditor or supplier, or is otherwise subject to a potential offset, counterclaim, dispute, deduction, discount, recoupment, reserve, defense, chargeback, credit or allowance (but ineligibility shall be limited to the amount thereof); (f) an Insolvency Proceeding has been commenced by or against the Account Debtor; or the Account Debtor has failed, has suspended or ceased doing business, is liquidating, dissolving or winding up its affairs, is not Solvent, unless (i) such Account Debtor (A) is a debtor-in-possession in a case then pending under chapter 11 of the Bankruptcy Code, (B) has established debtor-in-possession financing satisfactory to Lender in its sole discretion and (C) otherwise satisfied each of the requirements set forth in this definition of Eligible Account, or is subject to Sanctions or any specially designated nationals list maintained by OFAC; or the Borrower is not able to bring suit or enforce remedies against the Account Debtor through judicial process; (g) the Account Debtor is organized or has its principal offices or assets outside the United States or Canada, unless the Account is supported by a letter of credit (delivered to and directly drawable by Lender) or credit insurance satisfactory in all respects to Lender in its Permitted Discretion; (h) it is owing by a Governmental Authority, unless the Account Debtor is the United States or any department, agency or instrumentality thereof and the Account has been assigned to Lender in compliance with the federal Assignment of Claims Act; (i) it is not subject to a duly perfected, first priority Lien in favor of Lender, or is subject to any other Lien (other than, subject to the Debt and Lien Subordination Agreement or any subordination agreement for any other Subordinated Debt, Mezzanine Lender's Lien and any Lien of a lender of other Subordinated Debt); (j) the goods giving rise to it have not been delivered to the Account Debtor or it otherwise does not represent a final sale; (k) it is evidenced by Chattel Paper or an Instrument of any kind, or has been reduced to judgment; (l) its payment has been extended or the Account Debtor has made a partial payment; (m) it arises from a sale to an Affiliate, from a sale on a cash-on-delivery, bill-and-hold, sale-or-return, sale-on-approval, consignment, or other repurchase or return basis, or from a sale for personal, family or household purposes; (n) it represents a progress billing or retainage, or relates to services for which a performance, surety or completion bond or similar assurance has been issued on behalf of a Borrower; (o) it includes a billing for interest, fees or late charges, but ineligibility shall be limited to the extent thereof; or (p) it is a Factored Account, it has been charged back to a Borrower by a Factor under a Factoring Agreement, it is subject to reserves by a Factor or the Factor has advanced on it. In calculating delinquent portions of Accounts under clauses (a) and (b), credit balances more than 90 days old will be excluded.

Eligible Factoring Credit Balances: such Factoring Credit Balances that Lender, in its Permitted Discretion, determines to meet all of the following requirements: (i) such Factoring Credit Balances have been assigned to Lender pursuant to a Factor Intercreditor Agreement and are subject to Lender's duly perfected, first priority security interest and no other Lien except a Permitted Lien, (ii) such Factoring Credit Balances are not subject to any present or contingent offset, deduction or counterclaim including any such offset, deduction or counterclaim arising out of any Borrower's breach of any representation, warranty, agreement or covenant under the applicable Factoring Agreement, and (iii) such Factoring Credit Balances are not determined by Lender, in its Permitted Discretion, to be ineligible for any other reason.

Eligible Inventory: Inventory owned by a Borrower that Lender, in its Permitted Discretion, deems to be Eligible Inventory. Without limiting the foregoing, no Inventory shall be Eligible Inventory unless it (a) is finished goods or raw materials, and not work-in-process, packaging or shipping materials, labels, samples, display items, bags, replacement parts or manufacturing supplies; (b) is not held on consignment, nor subject to any deposit or down payment; (c) is in new and saleable condition and is not damaged, defective, shopworn or otherwise unfit for sale; (d) is not perishable, obsolete or unmerchantable, and does not constitute returned or repossessed goods; (e) meets all standards imposed by any Governmental Authority, has not been acquired from an entity subject to Sanctions or any specially designated nationals list maintained by OFAC, and does not constitute hazardous materials under any Environmental Law; (f) conforms with the covenants and representations herein; (g) is subject to Lender's duly perfected, first priority Lien, and no other Lien (other than, subject to the Debt and Lien Subordination Agreement or any subordination agreement for any other Subordinated Debt, Mezzanine Lender's Lien and any Lien of a lender of other Subordinated Debt); (h) is within the continental United States, is not in transit except between locations of Borrowers or between locations of a Borrower and any outside processor if such processor has delivered an appropriate Lien Waiver to Lender, and is not consigned to any Person; (i) is not subject to any warehouse receipt or negotiable Document; (j) is not subject to any License or other arrangement that restricts such Borrower's or Lender's right to dispose of such Inventory, unless Lender has received an appropriate Lien Waiver; (k) is not located on leased premises or in the possession of a warehouseman, processor, repairman, mechanic, shipper, freight forwarder or other Person, unless the lessor or such Person has delivered a Lien Waiver or an appropriate Rent and Charges Reserve has been established; and (l) is reflected in the details of a current perpetual inventory report (except for Inventory located at any outside processor).

Enforcement Action: any action to enforce any Obligations or Loan Documents or to realize upon any Collateral (whether by judicial action, self-help, notification of Account Debtors, exercise of setoff or recoupment, credit bid, action in an Obligor's Insolvency Proceeding or otherwise).

Environmental Agreement: an agreement of an Obligor to indemnify Lender from liability under Environmental Laws with respect to Real Estate subject to a Mortgage.

Environmental Laws: Applicable Laws (including programs, permits and guidance promulgated by regulators) relating to public health (other than occupational safety and health regulated by OSHA) or the protection or pollution of the environment, including CERCLA, RCRA and CWA.

Environmental Notice: a notice (whether written or oral) from any Governmental Authority or other Person of any possible noncompliance with, investigation of a possible violation of, litigation relating to, or potential fine or liability under any Environmental Law, or with respect to any Environmental Release, environmental pollution or hazardous materials, including any complaint, summons, citation, order, claim, demand or request for correction, remediation or otherwise.

Environmental Release: a release as defined in CERCLA or under any other Environmental Law.

Equity Contribution: shall have the meaning ascribed to it in the recitals hereto.

Equity Interest: the interest of any (a) shareholder in a corporation; (b) partner in a partnership (whether general, limited, limited liability or joint venture); (c) member in a limited liability company; or (d) other Person having any other form of equity security or ownership interest.

Equity Interest Pledge Agreement: that certain Pledge Agreement dated as of the Closing Date by and among Holdings, Marquis and Lender.

ERISA: the Employee Retirement Income Security Act of 1974.

ERISA Affiliate: any trade or business (whether or not incorporated) under common control with an Obligor within the meaning of Section 414(b) or (c) of the Code (and Sections 414(m) and (o) of the Code for purposes of provisions relating to Section 412 of the Code).

ERISA Event: (a) a Reportable Event with respect to a Pension Plan; (b) a withdrawal by any Obligor or ERISA Affiliate from a Pension Plan subject to Section 4063 of ERISA during a plan year in which it 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) a complete or partial withdrawal by any Obligor or ERISA Affiliate from a Multiemployer Plan or notification that a Multiemployer Plan is in reorganization; (d) the filing of a notice of intent to terminate, the treatment of a Plan amendment as a termination under Section 4041 or 4041A of ERISA, or the commencement of proceedings by the PBGC to terminate a Pension Plan or Multiemployer Plan; (e) the determination that any Pension Plan or Multiemployer Plan is considered an at risk plan or a plan in critical or endangered status under the Code, ERISA or the Pension Protection Act of 2006; (f) an event or condition which constitutes grounds under Section 4042 of ERISA for the termination of, or the appointment of a trustee to administer, any Pension Plan or Multiemployer Plan; or (g) the imposition of any liability under Title IV of ERISA, other than for PBGC premiums due but not delinquent under Section 4007 of ERISA, upon any Obligor or ERISA Affiliate.

Event of Default: as defined in **Section 11**.

Excluded Assets:

(a) any rights of an Obligor in any contract, license, right or other agreement if under the terms thereof, or any Applicable Law with respect thereto, the valid grant of a security interest therein to Lender is prohibited and such prohibition has not been waived or the consent of the other party to such contract or license has not been obtained or, under Applicable Law, such prohibition cannot be waived; provided however that (i) the "Excluded Assets" shall not be interpreted (A) to apply to any contract, license, right or other agreement to the extent the applicable prohibition is ineffective or unenforceable under the UCC (including Sections 9-406 through 9-409 or any other Applicable Law), or (B) so as to limit, impair or otherwise affect Lender's unconditional continuing security interest in and Lien upon any rights or interests of such Obligor in or to moneys due or to become due under any such contract, license, right or other agreement (including any Accounts), and (ii) notwithstanding the foregoing, Lender's security interest in any such contract, license, right or other agreement shall attach immediately (and thus become Collateral hereunder) at such time as the condition causing such prohibition or default is remedied or removed, and

(b) any intent-to-use trademark application to the extent that, and solely during the period in which, the grant of a security interest therein to Lender would impair the validity or enforceability of such intent-to-use trademark application or the trademark that is the subject of such application under federal law;

provided that "Excluded Assets" shall not include any right to receive proceeds from the sale or other disposition of any Excluded Asset or any proceeds, products, substitutions or replacements of Excluded Assets.

Excluded Swap Obligation: with respect to an Obligor, each Swap Obligation as to which, and only to the extent that, such Obligor's guaranty of or grant of a Lien as security for such Swap Obligation is or becomes illegal under the Commodity Exchange Act because the Obligor does not constitute an "eligible contract participant" as defined in the act (determined after giving effect to any keepwell, support or other agreement for the benefit of such Obligor and all guarantees of Swap Obligations by other Obligors) when such guaranty or grant of Lien becomes effective with respect to the Swap Obligation. If a Hedging Agreement governs more than one Swap Obligation, only the Swap Obligation(s) or portions thereof described in the foregoing sentence shall be Excluded Swap Obligation(s) for the applicable Obligor.

Excluded Taxes: (a) Taxes imposed on or measured by a Recipient's net income (however denominated), franchise Taxes and branch profits Taxes (i) as a result of such Recipient being organized under the laws of, or having its principal office or, in the case of Lender, its lending office located in, the jurisdiction imposing such Tax, or (ii) constituting Other Connection Taxes; and (b) U.S. federal withholding Taxes imposed pursuant to FATCA.

Extraordinary Expenses: all costs, expenses or advances that Lender may incur during a Default or Event of Default, or during the pendency of an Insolvency Proceeding of an Obligor, including those relating to (a) any audit, inspection, repossession, storage, repair, appraisal, insurance, manufacture, preparation or advertising for sale, sale, collection, or other preservation of or realization upon any Collateral; (b) any action, arbitration or other proceeding (whether instituted by or against Lender, any Obligor, any representative of creditors of an Obligor or any other Person) in any way relating to any Collateral (including the validity, perfection, priority or avoidability of Lender's Liens with respect to any Collateral), Loan Documents, Letters of Credit or Obligations, including any lender liability or other Claims; (c) the exercise of any rights or remedies of Lender in, or the monitoring of, any Insolvency Proceeding; (d) settlement or satisfaction of taxes, charges or Liens with respect to any Collateral; (e) any Enforcement Action; and (f) negotiation and documentation of any modification, waiver, workout, restructuring or forbearance with respect to any Loan Documents or Obligations. Such costs, expenses and advances include transfer fees, Other Taxes, storage fees, insurance costs, permit fees, utility reservation and standby fees, legal fees, appraisal fees, brokers' and auctioneers' fees and commissions, accountants' fees, environmental study fees, wages and salaries paid to employees of any Obligor or independent contractors in liquidating any Collateral, and travel expenses.

Factor: The CIT Group/Commercial Services, Inc., Branch Banking and Trust Company or any other factor reasonably acceptable to, and agreed to in writing by, Lender, and "Factors" means all of such entities collectively.

Factor Intercreditor Agreement: an assignment of factoring credit balances and intercreditor agreement (or document of similar name) among a Borrower, Lender and a Factor, in form and substance acceptable to Lender, pursuant to which such Borrower assigns to Lender the right to receive monies due under the applicable Factoring Agreement and the Factor agrees not to (a) advance or loan funds to such Borrower or guarantee obligations of such Borrower (except to the extent the Factor agrees not to offset amounts payable to it with respect thereto against amounts due under the Factoring Agreement), or (b) offset ledger debt against amounts due under the applicable Factoring Agreement, and "Factor Intercreditor Agreements" means all such agreements collectively.

Factored Account: shall mean an account of a Borrower which is factored by a Factor under a Factoring Agreement.

Factored Accounts Formula Amount: on any date of determination thereof, an amount equal to 85% (or such lesser percentage as Lender may in its Permitted Discretion determine from time to time) of the net amount of Eligible Factoring Credit Balances on such date.

Factoring Agreement: a factoring agreement by and between a Factor and a Borrower, in form and substance reasonably acceptable to Lender, with respect to the factoring of Accounts arising from sales by such Borrower to Account Debtors located in the United States of America, and "Factoring Agreements" means all such agreements collectively.

Factoring Credit Balances: the aggregate of the outstanding net amount payable by the Factors to Borrowers at any time for Accounts factored under the Factoring Agreements by Borrowers with the Factors so long as such Accounts would satisfy all of the criteria for Eligible Accounts, as determined by Lender, in its Permitted Discretion, except that such Account is a Factored Account.

FATCA: Sections 1471 through 1474 of the Code (including any amended or successor version if substantively comparable and not materially more onerous to comply with), and any agreements entered into pursuant to Section 1471(b)(1) of the Code.

Federal Funds Rate: (a) the weighted average of interest rates on overnight federal funds transactions with members of the Federal Reserve System arranged by federal funds brokers on the applicable Business Day (or on the preceding Business Day, if the applicable day is not a Business Day), as published by the Federal Reserve Bank of New York on the next Business Day; or (b) if no such rate is published on the next Business Day, the average rate (rounded up, if necessary, to the nearest 1/8 of 1%) charged to Lender on the applicable day on such transactions, as determined by Lender.

Fiscal Quarter: each period of three months, commencing on the first day of a Fiscal Year.

Fiscal Year: the fiscal year of Borrowers and Subsidiaries for accounting and tax purposes, ending on September 30 of each year.

Fixed Charge Coverage Ratio: the ratio, determined on a consolidated basis for Borrowers and Subsidiaries for the most recent 12 months, of (a) EBITDA minus Capital Expenditures (except those financed with Borrowed Money other than Revolver Loans), to (b) Fixed Charges. For purposes of this Agreement, Fixed Charge Coverage Ratio and its components for the 12 months prior to the Closing Date is as shown on **Exhibit A**.

Fixed Charges: the sum of interest expense (other than payment-in-kind) and principal payments made on Borrowed Money, income taxes paid in cash and Distributions made (excluding (a) Upstream Payments and (b) Distributions made on or about the Closing Date that relate to transactions contemplated by the Marquis SPA Documents, as in effect on the Closing Date).

FLSA: the Fair Labor Standards Act of 1938.

Foreign Plan: any employee benefit plan or arrangement (a) maintained or contributed to by any Obligor or Subsidiary that is not subject to the laws of the United States; or (b) mandated by a government other than the United States for employees of any Obligor or Subsidiary.

Foreign Subsidiary: a Subsidiary that is a "controlled foreign corporation" under Section 957 of the Code, such that a guaranty by such Subsidiary of the Obligations or a Lien on the assets of such Subsidiary to secure the Obligations would result in material tax liability to Borrowers.

Full Payment: with respect to any Obligations, (a) the full and indefeasible cash payment thereof, including any interest, fees and other charges accruing during an Insolvency Proceeding (whether or not allowed in the proceeding); (b) if such Obligations are LC Obligations or inchoate or contingent in nature, Cash Collateralization thereof (or delivery of a standby letter of credit acceptable to Lender in its discretion, in the amount of required Cash Collateral); and (c) a release of any Claims of Obligors against Lender arising on or before the payment date. The Revolver Loans shall not be deemed to have been paid in full unless the Revolver Commitment has terminated.

GAAP: generally accepted accounting principles in effect in the United States from time to time.

Governmental Approvals: all authorizations, consents, approvals, licenses and exemptions of, registrations and filings with, and required reports to, all Governmental Authorities.

Governmental Authority: any federal, state, county, municipal, foreign or other governmental agency, authority, body, commission, court, instrumentality, political subdivision, central bank, or other entity or officer exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions for any governmental, judicial, investigative, regulatory or self-regulatory authority (including any supra-national bodies such as the European Union or European Central Bank).

Guarantor Payment: as defined in **Section 5.9.3**.

Guarantors: each Person that guarantees payment or performance of Obligations.

Guaranty: each guaranty agreement executed by a Guarantor in favor of Lender.

Hedging Agreement: any "swap agreement" as defined in Section 101(53B)(A) of the Bankruptcy Code.

Indemnified Taxes: (a) Taxes, other than Excluded Taxes, imposed on or relating to any payment of an Obligation; and (b) to the extent not otherwise described in clause (a), Other Taxes.

Indemnitees: Lender, other Secured Parties, and their officers, directors, employees, Affiliates, agents and attorneys.

Insolvency Proceeding: any case or proceeding commenced by or against a Person under any state, federal or foreign law for, or any agreement of such Person to, (a) the entry of an order for relief under the Bankruptcy Code, or any other applicable insolvency, debtor relief or debt adjustment law; (b) the appointment of a receiver, trustee, liquidator, administrator, conservator or other custodian for such Person or any part of its Property; or (c) an assignment or trust mortgage for the benefit of creditors.

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

Intellectual Property Claim: any claim or assertion (whether in writing, by suit or otherwise) that a Borrower's or Subsidiary's ownership, use, marketing, sale or distribution of any Inventory, Equipment, Intellectual Property or other Property violates another Person's Intellectual Property.

Interest Period: as defined in **Section 3.1.3**.

Inventory: as defined in the UCC, including all goods intended for sale, lease, display or demonstration; all work in process; and all raw materials, and other materials and supplies of any kind that are or could be used in connection with the manufacture, printing, packing, shipping, advertising, sale, lease or furnishing of such goods, or otherwise used or consumed in a Borrower's business (but excluding Equipment).

Inventory Formula Amount: the lesser of (i) \$7,500,000; (ii) 65% of the Value of Eligible Inventory; or (iii) 85% of the NOLV Percentage of the Value of Eligible Inventory. As used in this definition of Inventory Formula Amount, advance rates shall be determined by an appraisal firm satisfactory to Lender, in its Permitted Discretion, with the advance rate for purposes of clause (ii) of this definition of Inventory Formula Amount for each individual category of raw materials, work-in-process and finished goods not to exceed 70% and with the overall advance rate for all three of such categories (*i.e.*, raw materials, work-in-process and finished goods) not to exceed 65%. For the avoidance of doubt, on the Closing Date, the individual advance rate for purposes of clause (ii) of this definition of Inventory Formula Amount shall be 55.3% for raw materials, 0% for work-in-process and 70.0% for finished goods.

Inventory Reserve: reserves established by Lender in its Permitted Discretion to reflect factors that may negatively impact the Value of Inventory, including change in salability, obsolescence, seasonality, theft, shrinkage, imbalance, change in composition or mix, markdowns and vendor chargebacks.

Investment: an Acquisition, an acquisition of record or beneficial ownership of any Equity Interests of a Person, or an advance or capital contribution to or other investment in a Person; provided, that, Capital Expenditures shall not in and of themselves constitute "Investments".

IRS: the United States Internal Revenue Service.

LC Application: an application by Borrower Agent to Lender for issuance of a Letter of Credit, in form and substance satisfactory to Lender.

LC Conditions: the following conditions necessary for issuance of a Letter of Credit: (a) each of the conditions set forth in **Section 6**; (b) after giving effect to such issuance, total LC Obligations do not exceed the Letter of Credit Subline, no Overadvance exists and Revolver Usage does not exceed the Borrowing Base; (c) the Letter of Credit and payments thereunder are denominated in Dollars or other currency satisfactory to Lender; and (d) the purpose and form of the proposed Letter of Credit are satisfactory to Lender in its discretion.

LC Documents: all documents, instruments and agreements (including LC Requests and LC Applications) delivered by Borrowers or any other Person to Lender in connection with issuance, amendment, renewal of, or payment under, any Letter of Credit.

LC Obligations: the sum of (a) all amounts owing by Borrowers for drawings under Letters of Credit; and (b) the Stated Amount of all outstanding Letters of Credit.

LC Request: a request for issuance of a Letter of Credit, to be provided by Borrower Agent, in form satisfactory to Lender.

Lender Professionals: attorneys, accountants, appraisers, auditors, business valuation experts, environmental engineers or consultants, turnaround consultants, and other professionals and experts retained by Lender.

Letter of Credit: any standby or documentary letter of credit, foreign guaranty, documentary bankers acceptance or similar instrument issued by Lender for the account or benefit of an Obligor or a Subsidiary of an Obligor.

Letter of Credit Subline: \$1,500,000.

LIBOR: for any Interest Period, the per annum rate of interest (rounded up, if necessary, to the nearest 1/8th of 1%) determined by Lender at approximately 11:00 a.m. (London time) two Business Days prior to commencement of such Interest Period, for a term comparable to such Interest Period, equal to (a) the British Bankers Association LIBOR Rate or successor thereto if such association is no longer making such rate available, as published by Reuters (or other commercially available source designated by Lender); or (b) if the rate described in clause (a) is unavailable for any reason, the interest rate at which Dollar deposits in the approximate amount of the Loan would be offered by Lender's London branch to major banks in the London interbank Eurodollar market.

LIBOR Loan: each set of LIBOR Revolver Loans or LIBOR Term Loans having a common length and commencement of Interest Period.

LIBOR Revolver Loan: a Revolver Loan that bears interest based on LIBOR.

LIBOR Term Loan: a Term Loan that bears interest based on LIBOR.

License: any license or agreement under which an Obligor is authorized to use Intellectual Property (other than off-the-shelf software) in connection with any manufacture, marketing, distribution or disposition of Collateral, any use of Property or any other conduct of its business.

Licensor: any Person from whom an Obligor obtains the right to use any Intellectual Property.

Lien: a Person's interest in Property securing an obligation owed to, or a claim by, such Person, including any lien, security interest, pledge, hypothecation, assignment, trust, reservation, encroachment, easement, right-of-way, covenant, condition, restriction, lease, or other title exception or encumbrance.

Lien Waiver: an agreement, in form and substance reasonably satisfactory to Lender, by which (a) for any material Collateral located on leased premises, the lessor waives or subordinates any Lien it may have on the Collateral, and agrees to permit Lender to enter upon the premises and remove the Collateral or to use the premises to store or dispose of the Collateral; (b) for any Collateral held by a warehouseman, processor, shipper, customs broker or freight forwarder, such Person waives or subordinates any Lien it may have on the Collateral, agrees to hold any Documents in its possession relating to the Collateral as agent for Lender, and agrees to deliver the Collateral to Lender upon request; (c) for any Collateral held by a repairman, mechanic or bailee, such Person acknowledges Lender's Lien, waives or subordinates any Lien it may have on the Collateral, and agrees to deliver the Collateral to Lender upon request; and (d) for any Collateral subject to a Licensor's Intellectual Property rights, the Licensor grants to Lender the right, vis-à-vis such Licensor, to enforce Lender's Liens with respect to the Collateral, including the right to dispose of it with the benefit of the Intellectual Property, whether or not a default exists under any applicable License.

Live: LiveDeal, Inc., a Nevada corporation.

Live Restructuring Transaction: a transaction anticipated to be consummated after the Closing Date pursuant to which Live becomes a wholly-owned subsidiary of Live Ventures, Live ceases to be publicly traded and Live Ventures becomes publicly traded.

Loan: a Revolver Loan or Term Loan.

Loan Documents: this Agreement, Other Agreements and Security Documents.

Loan Year: each 12 month period commencing on the Closing Date and on each anniversary of the Closing Date.

Margin Stock: as defined in Regulation U of the Board of Governors.

Marquis Acquisition: shall have the meaning ascribed to it in the recitals hereto.

Marquis SPA: shall have the meaning ascribed to it in the recitals hereto.

Marquis SPA Documents: shall have the meaning ascribed to it in the recitals hereto.

Material Adverse Effect: the effect of any event or circumstance that, taken alone or in conjunction with other events or circumstances, (a) has or could be reasonably expected to have a material adverse effect on the business, operations, Properties or condition (financial or otherwise) of Obligors, taken as a whole, on the value of any material Collateral, on the enforceability of any Loan Documents, or on the validity or priority of Lender's Liens on any Collateral; (b) impairs the ability of an Obligor to perform its obligations under the Loan Documents, including repayment of any Obligations; or (c) otherwise impairs the ability of Lender to enforce or collect any Obligations or to realize upon any material Collateral.

Material Contract: any agreement or arrangement to which a Borrower or Subsidiary is party (other than the Loan Documents) (a) that is deemed to be a material contract under any securities law applicable to such Person, including the Securities Act of 1933; (b) for which breach, termination, nonperformance or failure to renew could reasonably be expected to have a Material Adverse Effect; or (c) that relates to Subordinated Debt, or to Debt in an aggregate amount of \$1,000,000 or more.

Mezzanine Debt: shall have the meaning ascribed to it in the recitals hereto.

Mezzanine Debt Documents: shall have the meaning ascribed to it in the recitals hereto.

Mezzanine Lender: shall have the meaning ascribed to it in the recitals hereto.

Mezzanine Loan Agreement: shall have the meaning ascribed to it in the recitals hereto.

Moody's: Moody's Investors Service, Inc., and its successors.

Mortgage: a mortgage or deed of trust in which an Obligor grants a Lien on its Real Estate to Lender, as security for its Obligations.

Multiemployer Plan: any employee benefit plan of the type described in Section 4001(a)(3) of ERISA, to which any Obligor or ERISA Affiliate makes or is obligated to make contributions, or during the preceding five plan years, has made or been obligated to make contributions.

Net Proceeds: with respect to an Asset Disposition, proceeds (including, when received, any deferred or escrowed payments) received by a Borrower or Subsidiary in cash from such disposition, net of bona fide direct costs incurred in connection therewith, including (a) reasonable and customary costs and expenses actually incurred in connection therewith, including legal fees and sales commissions and fees of accountants, investment bankers and consultants; (b) amounts applied to repayment of Debt secured by a Permitted Lien senior to Lender's Liens on Collateral sold; (c) transfer or similar taxes; and (d) reserves for indemnities, until such reserves are no longer needed.

NOLV Percentage: the net orderly liquidation value of Inventory, expressed as a percentage, expected to be realized at an orderly, negotiated sale held within a reasonable period of time, net of all liquidation expenses, as determined from the most recent appraisal of Borrowers' Inventory performed by an appraiser and on terms satisfactory to Lender.

Notice of Borrowing: a Notice of Borrowing to be provided by Borrower Agent to request a Borrowing of Revolver Loans, in form reasonably satisfactory to Lender.

Notice of Conversion/Continuation: a Notice of Conversion/Continuation to be provided by Borrower Agent to request a conversion or continuation of any Loans as LIBOR Loans, in form reasonably satisfactory to Lender.

Obligations: all (a) principal of and premium, if any, on the Loans, (b) LC Obligations and other obligations of Obligors with respect to Letters of Credit, (c) interest, expenses, fees, indemnification obligations, Extraordinary Expenses and other amounts payable by Obligors under Loan Documents, (d) Bank Product Debt, and (e) other Debts, obligations and liabilities of any kind owing by any Obligor to Lender, whether now existing or hereafter arising, whether evidenced by a note or other writing, whether allowed in any Insolvency Proceeding, whether arising from an extension of credit, issuance of a letter of credit, acceptance, loan, guaranty, indemnification or otherwise, and whether direct or indirect, absolute or contingent, due or to become due, primary or secondary, or joint or several; provided, that Obligations of an Obligor shall not include its Excluded Swap Obligations.

Obligor: each Borrower, Guarantor, or other Person that is liable for payment of any Obligations or that has granted a Lien in favor of Lender on its assets to secure any Obligations.

OFAC: Office of Foreign Assets Control of the U.S. Treasury Department.

Ordinary Course of Business: the ordinary course of business of any Borrower or Subsidiary, undertaken in good faith and consistent with Applicable Law and past practices.

Organic Documents: with respect to any Person, its charter, certificate or articles of incorporation, bylaws, articles of organization, limited liability agreement, operating agreement, members agreement, shareholders agreement, partnership agreement, certificate of partnership, certificate of formation, voting trust agreement, or similar agreement or instrument governing the formation or operation of such Person.

OSHA: the Occupational Safety and Hazard Act of 1970.

Other Agreement: the Debt and Lien Subordination Agreement and each LC Document, Lien Waiver, Release Agreement, Real Estate Related Document, Borrowing Base Certificate, Credit Insurance Loss Payable Endorsement, Compliance Certificate, financial statement or report delivered hereunder, each Factor Intercreditor Agreement, or any other document, instrument or agreement (other than this Agreement or a Security Document) now or hereafter delivered by an Obligor or other Person to Lender in connection with any transactions relating hereto.

Other Connection Taxes: Taxes imposed on a Recipient due to a present or former connection between it and the taxing jurisdiction (other than connections arising from the Recipient having executed, delivered, become party to, performed obligations or received payments under, received or perfected a Lien or engaged in any other transaction pursuant to, enforced, or sold or assigned an interest in, any Loan or Loan Document).

Other Taxes: all present or future stamp, court, documentary, intangible, recording, filing or similar Taxes that arise from any payment made under, from the execution, delivery, performance, enforcement or registration of, from the receipt or perfection of a Lien under, or otherwise with respect to, any Loan Document, except Other Connection Taxes imposed with respect to an assignment.

Overadvance: as defined in **Section 2.1.4**.

Patriot Act: the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, Pub. L. No. 107-56, 115 Stat. 272 (2001).

Payment Item: each check, draft or other item of payment payable to a Borrower, including those constituting proceeds of any Collateral.

PBGC: the Pension Benefit Guaranty Corporation.

Pension Plan: any employee pension benefit plan (as defined in Section 3(2) of ERISA), other than a Multiemployer Plan, that is subject to Title IV of ERISA and is sponsored or maintained by any Obligor or ERISA Affiliate or to which the Obligor or ERISA Affiliate contributes or has an obligation to contribute, or in the case of a multiple employer or other plan described in Section 4064(a) of ERISA, has made contributions at any time during the preceding five plan years.

Permitted Acquisition: any Acquisition as long as (a) no Default or Event of Default exists or is caused thereby; (b) the Acquisition is consensual; (c) the assets, business or Person being acquired is useful or engaged in the business of Borrowers and Subsidiaries, is located or organized within the United States, and had positive unadjusted EBITDA for the 12 month period most recently ended; (d) no Debt or Liens are incurred, assumed or result from the Acquisition, except Debt permitted under **Section 10.2.1(g) or (i)**; (e) Lender has received the financial statements required under **Section 10.1.2(a)(ii)**; (f) the total consideration (including deferred payment obligations and Debt assumed or incurred), when aggregated with the total consideration for all other Acquisitions made during the preceding 12 months, is less than \$5,000,000; (g) Availability on each day during the 90 day period immediately preceding such Acquisition calculated on a pro forma basis assuming such Acquisition occurred on the first day of such period (including any Loans made hereunder to finance such Acquisition) shall be greater than or equal to \$4,000,000; (h) Availability, on the date of such Acquisition, immediately after giving pro forma effect to the consummation of such Acquisition (including any Loans made hereunder to finance such Acquisition) shall be greater than or equal to \$4,000,000; (i) Lender has received evidence that after giving effect to the consummation of such Acquisition, Borrowers shall maintain a Fixed Charge Coverage Ratio of at least 1.25 to 1.0 on a pro forma basis, measured as of the most recently ended month for which Obligors have delivered the financial statements required under **Section 10.1.2(a) or (b)**, as the case may be, for the twelve month period then ended; (j) at the time of any such proposed Acquisition, the outstanding balance of the Term Loan is less than or equal to \$4,500,000; and (k) Borrowers deliver to Lender, at least 10 Business Days prior to the Acquisition, copies of all material agreements relating thereto and a certificate, in form and substance satisfactory to Lender, stating that the Acquisition is a "Permitted Acquisition" and demonstrating compliance with the foregoing requirements.

Permitted Asset Disposition: as long as no Default or Event of Default exists and all Net Proceeds are remitted to Lender, an Asset Disposition that is (a) a sale of Inventory in the Ordinary Course of Business; (b) a disposition of Equipment that, in the aggregate during any 12 month period, has a fair market or book value (whichever is more) of \$500,000 or less; (c) a disposition of Inventory that is obsolete, unmerchantable or otherwise unsalable or replaced in the Ordinary Course of Business; (d) termination of a lease of real or personal Property that is not necessary for the Ordinary Course of Business, where such termination could not reasonably be expected to have a Material Adverse Effect and does not result from an Obligor's default; (e) sales of Factored Accounts to a Factor pursuant to a Factoring Agreement; (f) a discount or other compromise for less than face value of notes or Accounts in the Ordinary Course of Business; (g) a sale or disposition to a Borrower to the extent permitted herein; (h) transfers of Property subject to condemnation or casualty events; (i) as long as no Default or Event of Default is continuing or would result therefrom, any other disposition of Property other than Accounts or Inventory for fair market value so long as (i) at least 75% of the consideration received for such sale shall be cash and (ii) the Value of the Property so disposed shall not exceed \$1,000,000 per Fiscal Year; or (j) approved in writing by Lender.

Permitted Contingent Obligations: Contingent Obligations (a) arising from endorsements of Payment Items for collection or deposit in the Ordinary Course of Business; (b) arising from Hedging Agreements permitted hereunder; (c) existing on the Closing Date, and any extension or renewal thereof that does not increase the amount of such Contingent Obligation when extended or renewed; (d) incurred in the Ordinary Course of Business with respect to workers' compensation claims, self-insurance obligations, surety, appeal or performance bonds, or other similar obligations; (e) arising from customary indemnification obligations in favor of purchasers in connection with dispositions of Equipment permitted hereunder; (f) arising under the Loan Documents; or (g) in an aggregate amount of \$500,000 or less at any time.

Permitted Discretion: a determination made in the exercise, in good faith, of reasonable business judgment (from the perspective of a secured, asset-based lender).

Permitted Lien: as defined in **Section 10.2.2**.

Permitted Non-Tax Distributions: Distributions by Holdings to holders of its Equity Interests so long as the following conditions are satisfied: (a) no Default or Event of Default has occurred or would result from such Distribution, (b) Lender has received the financial statements required under **Section 10.1.2(a)(ii)**, (c) Lender has received evidence that after giving effect to the consummation of such Distribution, Borrowers shall maintain a Fixed Charge Coverage Ratio of at least 1.25 to 1.0 on a pro forma basis, measured as of the most recently ended month for which Obligors have delivered the financial statements required under **Section 10.1.2(a) or (b)**, as the case may be, for the twelve month period then ended, (d) Availability on each day during the 90 day period immediately preceding such Distribution calculated on a pro forma basis assuming such Distribution occurred on the first day of such period (including any Loans made hereunder to finance such Distribution) shall be greater than or equal to \$4,000,000, (e) Availability, on the date of such Distribution, immediately after giving pro forma effect to the consummation of such Distribution (including any Loans made hereunder to finance such Distribution) shall be greater than or equal to \$4,000,000 and (f) at the time of any such proposed Distribution, the outstanding balance of the Term Loan is less than or equal to \$4,500,000.

Permitted Purchase Money Debt: Purchase Money Debt of Borrowers and Subsidiaries that is unsecured or secured only by a Purchase Money Lien, as long as the aggregate amount does not exceed \$5,000,000 at any time.

Permitted Tax Distributions: for so long as Holdings is taxed as a partnership for federal income tax purposes in accordance with the Code, a cash Distribution by Holdings to holders of its Equity Interests no more frequently than once each Fiscal Quarter (each a "**Tax Distribution**") based upon the consolidated taxable income of Borrowers under Section 703 of the Code in an amount that is not in excess of the amount necessary to pay federal, state and local income taxes (including quarterly estimated tax payments) solely attributable to the holders' distributive shares of the consolidated taxable income of Borrowers determined assuming each holder is subject to taxation at a rate that is equal to the highest federal, state and local income tax rate payable by any holder of Equity Interests in Borrowers for the applicable tax year. If any Tax Distribution is made as set forth in **Section 10.2.4**, Borrowers shall deliver to Lender, as soon as practicable following the last day of the taxable year of Borrowers for which any such Tax Distribution is made, a true and correct copy of each Schedule K-1 delivered by Borrowers to the holders of its Equity Interests for such taxable year.

Person: any individual, corporation, limited liability company, partnership, joint venture, association, trust, unincorporated organization, Governmental Authority or other entity.

Plan: any employee benefit plan (as such term is defined in Section 3(3) of ERISA) established by an Obligor or, with respect to any such plan that is subject to Section 412 of the Code or Title IV of ERISA, an ERISA Affiliate.

Platform: as defined in **Section 12.3.3.**

Prime Rate: the rate of interest announced by Lender from time to time as its prime rate. Such rate is set by Lender on the basis of various factors, including its costs and desired return, general economic conditions and other factors, and is used as a reference point for pricing some loans, which may be priced at, above or below such rate. Any change in such rate publicly announced by Lender shall take effect at the opening of business on the day specified in the announcement.

Properly Contested: with respect to any obligation of an Obligor, (a) the obligation is subject to a bona fide dispute regarding amount or the Obligor's liability to pay; (b) the obligation is being properly contested in good faith by appropriate proceedings promptly instituted and diligently pursued; (c) appropriate reserves have been established in accordance with GAAP; (d) non-payment could not have a Material Adverse Effect, nor result in forfeiture or sale of any assets of the Obligor; (e) no Lien is imposed on assets of the Obligor, unless bonded and stayed to the satisfaction of Lender; and (f) if the obligation results from entry of a judgment or other order, such judgment or order is stayed pending appeal or other judicial review.

Property: any interest in any kind of property or asset, whether real, personal or mixed, or tangible or intangible.

Purchase Money Debt: (a) Debt (other than the Obligations) for payment of any of the purchase price of fixed assets (including equipment and vehicles); (b) Debt (other than the Obligations) incurred within 10 days before or after acquisition of any fixed assets (including equipment and vehicles), for the purpose of financing any of the purchase price thereof; and (c) any renewals, extensions or refinancings (but not increases) thereof.

Purchase Money Lien: a Lien that secures Purchase Money Debt, encumbering only the fixed assets acquired with such Debt and constituting a Capital Lease or a purchase money security interest under the UCC.

Qualified ECP: an Obligor with total assets exceeding \$10,000,000, or that constitutes an "eligible contract participant" under the Commodity Exchange Act and can cause another Person to qualify as an "eligible contract participant" under Section 1a(18)(A)(v)(II) of such act.

RCRA: the Resource Conservation and Recovery Act (42 U.S.C. §§ 6991-6991i).

Real Estate: all right, title and interest (whether as owner, lessor or lessee) in any real Property or any buildings, structures, parking areas or other improvements thereon.

Recipient: Lender or any other recipient of a payment to be made by an Obligor under a Loan Document or on account of an Obligation.

Refinancing Conditions: the following conditions for Refinancing Debt: (a) it is in an aggregate principal amount that does not exceed the principal amount of the Debt being extended, renewed or refinanced; (b) it has a final maturity no sooner than, and a weighted average life no less than the Debt being extended, renewed or refinanced and an interest rate at a rate that does not exceed a rate that is 4.00% higher than the interest rate of the Debt being extended, renewed or refinanced; (c) if such Refinancing Debt is in relation to Subordinated Debt, (i) such Refinancing Debt satisfies all of the requirements under this Agreement to constitute Subordinated Debt, (ii) the subordination agreement with respect thereto is not materially less favorable to Lender than the subordination agreement with respect to the Subordinated Debt being extended, renewed or refinanced, and (iii) it is subordinated to the Obligations at least to the same extent as the Debt being extended, renewed or refinanced; (d) the representations, covenants and defaults applicable to it taken as a whole are not materially less favorable to Borrowers than those applicable to the Debt being extended, renewed or refinanced; (e) no additional Lien is granted to secure it; (f) no additional Person is obligated on such Debt; and (g) upon giving effect to it, no Default or Event of Default exists.

Refinancing Debt: Borrowed Money that is the result of an extension, renewal or refinancing of Debt permitted under **Section 10.2.1(b), (c) or (e)**.

Reimbursement Date: as defined in **Section 2.3.2**.

Related Real Estate Documents: with respect to any Real Estate subject to a Mortgage, the following, in form and substance reasonably satisfactory to Lender and received by Lender for review at least 5 days prior to the effective date of the Mortgage: (a) a mortgagee title policy (or binder therefor) covering Lender's interest under the Mortgage and all endorsements thereto and affirmative coverages thereunder required by Lender, by an insurer reasonably acceptable to Lender, which must be fully paid on such effective date; (b) such assignments of leases, estoppel letters, attornment agreements, consents, waivers and releases as Lender may require with respect to other Persons having an interest in the Real Estate; (c) a current, as-built survey of the Real Estate, containing a metes-and-bounds property description and certified by a licensed surveyor acceptable to Lender or, if acceptable to title insurer to remove the general survey exception from and to provide the endorsements to and affirmative coverages under the mortgagee title policy described in clause (a) above, a non-current, as-built survey of the Real Estate and a "no change affidavit" from the applicable Borrower; (d) a life-of-loan flood hazard determination and, if the Real Estate is located in a special flood hazard area, an acknowledged notice to borrower and flood insurance by an insurer reasonably acceptable to Lender; (e) a current appraisal of the Real Estate, prepared by an appraiser, and in form and substance reasonably satisfactory to Lender; (f) an environmental assessment, prepared by environmental engineers acceptable to Lender, and such other reports, certificates, studies or data as Lender may reasonably require; and (g) an Environmental Agreement and such other documents, instruments or agreements as Lender may reasonably require with respect to any environmental risks regarding the Real Estate.

Release Agreement: the Release Agreement dated on or about the Closing Date from FHL Capital Corporation in favor of Lender.

Rent and Charges Reserve: the aggregate of (a) all past due rent and other amounts owing by an Obligor to any landlord, warehouseman, processor, repairman, mechanic, shipper, freight forwarder, broker or other Person who possesses any Collateral or could assert a Lien on any Collateral (and in the case of a processor in possession of Inventory that constitutes Eligible Inventory, all amounts owing to such processor, whether or not such amounts are past due); and (b) a reserve equal to three months' rent and other charges that could be payable to any such Person, unless it has executed a Lien Waiver.

Reportable Event: any of the events set forth in Section 4043(c) of ERISA, other than events for which the 30 day notice period has been waived.

Restricted Investment: any Investment by a Borrower or Subsidiary, other than (a) Investments in Subsidiaries to the extent existing on the Closing Date; (b) Cash Equivalents that are subject to Lender's Lien and control, pursuant to documentation in form and substance reasonably satisfactory to Lender; (c) loans and advances permitted under **Section 10.2.7**; (d) Permitted Acquisitions; and (e) any Investment (other than a loan or advance, which is addressed in clause (c) of this definition) so long as (i) no Default or Event of Default has occurred or would result from such Investment, (b) Lender has received the financial statements required under **Section 10.1.2(a)(ii)**, (c) Lender has received evidence that after giving effect to the consummation of such Investment, Borrowers shall maintain a Fixed Charge Coverage Ratio of at least 1.25 to 1.0 on a pro forma basis, measured as of the most recently ended month for which Obligors have delivered the financial statements required under **Section 10.1.2(a) or (b)**, as the case may be, for the twelve month period then ended, (d) Availability on each day during the 90 day period immediately preceding such Investment calculated on a pro forma basis assuming such Investment occurred on the first day of such period (including any Loans made hereunder to finance such Investment) shall be greater than or equal to \$4,000,000, (e) Availability, on the date of such Investment, immediately after giving pro forma effect to the consummation of such Investment (including any Loans made hereunder to finance such Investment) shall be greater than or equal to \$4,000,000 and (f) at the time of any such proposed Investment, the outstanding balance of the Term Loan is less than or equal to \$4,500,000.

Restrictive Agreement: an agreement (other than a Loan Document, a Mezzanine Debt Document or a document relating to Subordinated Debt) that conditions or restricts the right of any Borrower, Subsidiary or other Obligor to incur or repay Borrowed Money, to grant Liens on any assets, to declare or make Distributions, to modify, extend or renew any agreement evidencing Borrowed Money, or to repay any intercompany Debt.

Revolver Commitment: Lender's obligation to make Revolver Loans and to issue Letters of Credit in an amount up to \$15,000,000 in the aggregate.

Revolver Loan: a loan made pursuant to **Section 2.1**.

Revolver Termination Date: July 6, 2020.

Revolver Usage: the aggregate amount of outstanding Revolver Loans, plus the aggregate Stated Amount of outstanding Letters of Credit.

Royalties: all royalties, fees, expense reimbursement and other amounts payable by a Borrower under a License.

S&P: Standard & Poor's Financial Services LLC, a subsidiary of The McGraw-Hill Companies, Inc., and any successor thereto.

Sanction: any international economic sanction administered or enforced by the United States Government (including OFAC), the United Nations Security Council, the European Union, Her Majesty's Treasury or other relevant sanctions authority.

Secured Parties: Lender and providers of Bank Products.

Security Documents: the Equity Interest Pledge Agreement, Guaranties, Mortgages, Trademark Security Agreement, Copyright Security Agreement, Deposit Account Control Agreements, and all other documents, instruments and agreements now or hereafter securing (or given with the intent to secure) any Obligations.

Senior Officer: the chairman of the board, president, chief executive officer or chief financial officer of a Borrower or, if the context requires, an Obligor.

Solvent: as to any Person, such Person (a) owns Property whose fair salable value (as defined below) is greater than the amount required to pay all of its debts (including contingent, subordinated, unmatured and unliquidated liabilities); (b) owns Property whose present fair salable value is greater than the probable total liabilities (including contingent, subordinated, unmatured and unliquidated liabilities) of such Person as they become absolute and matured; (c) is able to pay all of its debts as they mature; (d) has capital that is not unreasonably small for its business and is sufficient to carry on its business and transactions and all business and transactions in which it is about to engage; (e) is not "insolvent" within the meaning of Section 101(32) of the Bankruptcy Code; and (f) has not incurred (by way of assumption or otherwise) any obligations or liabilities (contingent or otherwise) under any Loan Documents, or made any conveyance in connection therewith, with actual intent to hinder, delay or defraud either present or future creditors of such Person or any of its Affiliates. "Fair salable value" means the amount that could be obtained for assets within a reasonable time, either through collection or through sale under ordinary selling conditions by a capable and diligent seller to an interested buyer who is willing (but under no compulsion) to purchase.

Specified Obligor: an Obligor that is not then an "eligible contract participant" under the Commodity Exchange Act (determined prior to giving effect to **Section 5.9.3**).

Stated Amount: the stated amount of a Letter of Credit, including any automatic increase provided by the terms of the Letter of Credit or related LC Documents, whether or not then effective.

Subordinated Debt: Debt incurred by a Borrower that is expressly subordinate and junior in right of payment to Full Payment of all Obligations, and is on terms (including maturity, interest, fees, repayment, covenants and subordination) reasonably satisfactory to Lender, including the Mezzanine Debt.

Subsidiary: any entity at least 50% of whose voting securities or Equity Interests is owned by a Borrower or combination of Borrowers (including indirect ownership through other entities in which a Borrower directly or indirectly owns 50% of the voting securities or Equity Interests).

Swap Obligations: with respect to an Obligor, its obligations under a Hedging Agreement that constitutes a "swap" within the meaning of Section 1a(47) of the Commodity Exchange Act.

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

Term Loan: a loan made pursuant to **Section 2.2**.

Term Loan Commitment: Lender's obligation to make a Term Loan in an amount up to \$7,787,662.

Term Loan Maturity Date: July 6, 2020.

Trademark Security Agreement: that certain Trademark Security Agreement dated as of the Closing Date by and among Marquis and Lender.

Transactions: collectively, the transactions contemplated in connection with the consummation of the initial Loans made under this Agreement on the Closing Date, the consummation of the transactions contemplated by the Mezzanine Debt Documents and the Equity Contribution and the consummation of the Marquis Acquisition.

UCC: the Uniform Commercial Code as in effect in the State of Georgia or, when the laws of any other jurisdiction govern the perfection or enforcement of any Lien, the Uniform Commercial Code of such jurisdiction.

Unfunded Pension Liability: the excess of a Pension Plan's benefit liabilities under Section 4001(a)(16) of ERISA, over the current value of that Pension Plan's assets, determined in accordance with the assumptions used for funding the Pension Plan pursuant to the Code, ERISA or the Pension Protection Act of 2006 for the applicable plan year.

Unused Line Fee Rate: a per annum rate equal to 0.25 %.

Upstream Payment: a Distribution by a Subsidiary of a Borrower to such Borrower.

Value: (a) for Inventory, its value determined on the basis of the lower of cost or market, calculated on a first-in, first-out basis, and excluding any portion of cost attributable to intercompany profit among Borrowers and their Affiliates; and (b) for an Account, its face amount, net of any returns, rebates, discounts (calculated on the shortest terms), credits, allowances or Taxes (including sales, excise or other taxes) that have been or could be claimed by the Account Debtor or any other Person.

1.2. Accounting Terms. Under the Loan Documents (except as otherwise specified therein), all accounting terms shall be interpreted, all accounting determinations shall be made, and all financial statements shall be prepared, in accordance with GAAP applied on a basis consistent with the most recent audited financial statements of Borrowers delivered to Lender before the Closing Date and using the same inventory valuation method as used in such financial statements, except for any change required or permitted by GAAP if Borrowers' certified public accountants concur in such change, the change is disclosed to Lender, and all relevant provisions of the Loan Documents are amended in a manner satisfactory to Lender to take into account the effects of the change.

1.3. Uniform Commercial Code. As used herein, the following terms are defined in accordance with the UCC in effect in the State of Georgia from time to time: "Chattel Paper," "Commercial Tort Claim," "Deposit Account," "Document," "Equipment," "General Intangibles," "Goods," "Instrument," "Investment Property," "Letter-of-Credit Right" and "Supporting Obligation."

1.4. Certain Matters of Construction. The terms "herein," "hereof," "hereunder" and other words of similar import refer to this Agreement as a whole and not to any particular section, paragraph or subdivision. Any pronoun used shall be deemed to cover all genders. In the computation of periods of time from a specified date to a later specified date, "from" means "from and including," and "to" and "until" each mean "to but excluding." The terms "including" and "include" shall mean "including, without limitation" and, for purposes of each Loan Document, the parties agree that the rule of *ejusdem generis* shall not be applicable to limit any provision. Section titles appear as a matter of convenience only and shall not affect the interpretation of any Loan Document. All references to (a) laws include all related regulations, interpretations, supplements, amendments and successor provisions; (b) any document, instrument or agreement include any amendments, waivers and other modifications, extensions or renewals (to the extent permitted by the Loan Documents); (c) any section mean, unless the context otherwise requires, a section of this Agreement; (d) any exhibits or schedules mean, unless the context otherwise requires, exhibits and schedules attached hereto, which are hereby incorporated by reference; (e) any Person include successors and assigns; (f) time of day mean time of day at Lender's notice address under **Section 12.3.1**; or (g) except where otherwise qualified herein, discretion of Lender mean its sole and absolute discretion. All references to Value, Borrowing Base components, Loans, Letters of Credit, Obligations and other amounts herein shall be denominated in Dollars, unless expressly provided otherwise, and all determinations (including calculations of Borrowing Base and financial covenants) made from time to time under the Loan Documents shall be made in light of the circumstances existing at such time. Borrowing Base calculations shall be consistent with historical methods of valuation and calculation, and otherwise satisfactory to Lender (and not necessarily calculated in accordance with GAAP). Borrowers shall have the burden of establishing any alleged negligence, misconduct or lack of good faith by Lender under any Loan Documents. No provision of any Loan Documents shall be construed against any party by reason of such party having, or being deemed to have, drafted the provision. Reference to a Borrower's "knowledge" or similar concept means actual knowledge of a Senior Officer, or knowledge that a Senior Officer would have obtained if he or she had engaged in good faith and diligent performance of his or her duties, including reasonably specific inquiries of employees or agents and a good faith attempt to ascertain the matter.

SECTION 2. CREDIT FACILITIES

2.1. Revolver Commitment.

2.1.1. Revolver Loans. Lender agrees, on the terms set forth herein, to make Revolver Loans to Borrowers in an aggregate amount up to the Revolver Commitment, from time to time through the Commitment Termination Date. The Revolver Loans may be repaid and reborrowed as provided herein. In no event shall Lender have any obligation to honor a request for a Revolver Loan if Revolver Usage at such time plus the requested Revolver Loan would exceed the Borrowing Base.

2.1.2. Use of Proceeds. The proceeds of Revolver Loans shall be used by Borrowers solely (a) to satisfy existing Debt; (b) to pay fees and transaction expenses associated with the closing of the Transactions; (c) to pay a portion of the purchase price for the Marquis Acquisition; (d) to pay Obligations in accordance with this Agreement; and (e) for other lawful corporate purposes of Borrowers, including working capital.

2.1.3. Voluntary Reduction or Termination of Revolver Commitment.

(a) The Revolver Commitment shall terminate on the Revolver Termination Date, unless sooner terminated in accordance with this Agreement. Upon at least 15 days prior written notice to Lender at any time, Borrowers may, at their option, terminate the Revolver Commitment and this credit facility. Any notice of termination given by Borrowers shall be irrevocable but, subject to Lender's discretion, may be conditioned upon the closing of a refinancing transaction. On the Revolver Termination Date, Borrowers shall make Full Payment of all Obligations.

(b) Borrowers may permanently reduce the Revolver Commitment upon at least 15 days prior written notice to Lender, which notice shall specify the amount of the reduction and shall be irrevocable once given; provided, however, that the Revolver Commitment may not be reduced below \$10,000,000 except in connection with a termination of the Revolver Commitment under **Section 2.1.3(a)**. Each reduction shall be in a minimum amount of \$1,000,000, or an increment of \$1,000,000 in excess thereof.

2.1.4. Overadvances. If Revolver Usage exceeds the Borrowing Base ("Overadvance") at any time, the excess amount shall be payable by Borrowers **on demand** by Lender, but all such Revolver Loans shall nevertheless constitute Obligations secured by the Collateral and entitled to all benefits of the Loan Documents. Any funding or sufferance of an Overadvance by Lender shall not constitute a waiver of the Event of Default caused thereby.

2.2. Term Loan Commitment. Lender agrees, on the terms set forth herein, to make a Term Loan to Borrowers in an amount up to the Term Loan Commitment. The Term Loan shall be funded by Lender on the Closing Date and the Term Loan Commitment shall expire upon funding.

2.3. Letter of Credit Facility.

2.3.1. Issuance of Letters of Credit. Lender agrees to issue Letters of Credit from time to time until 30 days prior to the Revolver Termination Date (or until the Commitment Termination Date, if earlier), on the terms set forth herein, including the following:

(a) Each Borrower acknowledges that Lender's willingness to issue any Letter of Credit is conditioned upon its receipt of a LC Application with respect to the requested Letter of Credit, as well as such other instruments and agreements as Lender may customarily require for issuance of a letter of credit of similar type and amount. Lender shall have no obligation to issue any Letter of Credit unless (i) it receives a LC Request and LC Application at least three Business Days prior to the requested date of issuance; and (ii) each LC Condition is satisfied.

(b) Letters of Credit may be requested by a Borrower to support obligations incurred in the Ordinary Course of Business, or as otherwise approved by Lender. Increase, renewal or extension of a Letter of Credit shall be treated as issuance of a new Letter of Credit, except that Lender may require a new LC Application in its discretion.

(c) Borrowers assume all risks of the acts, omissions or misuses of any Letter of Credit by the beneficiary. In connection with issuance of any Letter of Credit, Lender shall not be responsible for the existence, character, quality, quantity, condition, packing, value or delivery of any goods purported to be represented by any Documents; any differences or variation in the character, quality, quantity, condition, packing, value or delivery of any goods from that expressed in any Documents; the form, validity, sufficiency, accuracy, genuineness or legal effect of any Documents or of any endorsements thereon; the time, place, manner or order in which shipment of goods is made; partial or incomplete shipment of, or failure to ship, any goods referred to in a Letter of Credit or Documents; any deviation from instructions, delay, default or fraud by any shipper or other Person in connection with any goods, shipment or delivery; any breach of contract between a shipper or vendor and a Borrower; errors, omissions, interruptions or delays in transmission or delivery of any messages, by mail, cable, telegraph, telex, telecopy, e-mail, telephone or otherwise; errors in interpretation of technical terms; the misapplication by a beneficiary of any Letter of Credit or the proceeds thereof; or any consequences arising from causes beyond the control of Lender, including any act or omission of a Governmental Authority. No Indemnitee shall be liable to any Obligor or other Person for any action taken or omitted to be taken in connection with any Letter of Credit or LC Documents except as a result of its gross negligence or willful misconduct. Lender shall be fully subrogated to the rights and remedies of each beneficiary whose claims against Borrowers are discharged with proceeds of any Letter of Credit.

(d) In connection with its administration of and enforcement of rights or remedies under any Letters of Credit or LC Documents, Lender shall be entitled to act, and shall be fully protected in acting, upon any certification, documentation or communication in whatever form believed by Lender, in good faith, to be genuine and correct and to have been signed, sent or made by a proper Person. Lender may consult with and employ legal counsel, accountants and other experts to advise it concerning its obligations, rights and remedies, and shall be entitled to act upon, and shall be fully protected in any action taken in good faith reliance upon, any advice given by such experts. Lender may employ agents and attorneys-in-fact in connection with any matter relating to Letters of Credit or LC Documents, and shall not be liable for the negligence or misconduct of agents and attorneys-in-fact selected with reasonable care.

2.3.2. Reimbursement. If Lender honors any request for payment under a Letter of Credit, Borrowers shall pay to Lender, on the same day ("Reimbursement Date"), the amount paid under such Letter of Credit, together with interest at the interest rate for Base Rate Revolver Loans from the Reimbursement Date until payment by Borrowers. The obligation of Borrowers to reimburse Lender for any payment made under a Letter of Credit shall be absolute, unconditional, irrevocable, and joint and several, and shall be paid without regard to any lack of validity or enforceability of any Letter of Credit or the existence of any claim, setoff, defense or other right that Borrowers may have at any time against the beneficiary. Whether or not Borrower Agent submits a Notice of Borrowing, Borrowers shall be deemed to have requested a Borrowing of Base Rate Revolver Loans in an amount necessary to pay all amounts due on any Reimbursement Date.

2.3.3. Cash Collateral. If at any time (a) an Event of Default exists, (b) the Commitment Termination Date has occurred, or (c) the Revolver Termination Date is scheduled to occur within 20 Business Days, then Borrowers shall, at Lender's request, Cash Collateralize all outstanding Letters of Credit. If Borrowers fail to provide any Cash Collateral as required hereunder, Lender may advance, as Revolver Loans, the amount of Cash Collateral required.

SECTION 3. INTEREST, FEES AND CHARGES

3.1. Interest.

3.1.1. Rates and Payment of Interest.

(a) The Obligations shall bear interest (i) if a Base Rate Loan, at the Base Rate in effect from time to time, plus the Applicable Margin; (ii) if a LIBOR Loan, at LIBOR for the applicable Interest Period, plus the Applicable Margin; and (iii) if any other Obligation (including, to the extent permitted by law, interest not paid when due), at the Base Rate in effect from time to time, plus the Applicable Margin for Base Rate Revolver Loans. The Base Rate on the date hereof is % per annum and, therefore, the rate of interest in effect on the date hereof, expressed in simple interest terms, is % per annum for Base Rate Revolver Loans and % per annum for Term Loans constituting Base Rate Loans.

(b) During an Insolvency Proceeding with respect to any Borrower, or during the existence of any other Event of Default if Lender in its discretion so elects, Obligations shall bear interest at the Default Rate (whether before or after any judgment). Each Borrower acknowledges that the cost and expense to Lender due to an Event of Default are difficult to ascertain and that the Default Rate is fair and reasonable compensation for this.

(c) Interest shall accrue from the date a Loan is advanced or Obligation is incurred or payable, until paid in full by Borrowers. If a Loan is repaid on the same day made, one day's interest shall accrue. Interest accrued on the Loans shall be due and payable in arrears, (i) (A) on the first day of each month, if a Base Rate Loan, and (B) at the end of the applicable Interest Period, if a LIBOR Loan; (ii) on any date of prepayment, with respect to the principal amount of Loans being prepaid; and (iii) on the Commitment Termination Date. Interest accrued on any other Obligations shall be due and payable as provided in the Loan Documents and, if no payment date is specified, shall be due and payable **on demand**. Notwithstanding the foregoing, interest accrued at the Default Rate shall be due and payable **on demand**.

3.1.2. Application of LIBOR to Outstanding Loans.

(a) Borrowers may on any Business Day, subject to delivery of a Notice of Conversion/Continuation, elect to convert any portion of the Base Rate Loans to, or to continue any LIBOR Loan at the end of its Interest Period as, a LIBOR Loan. During any Default or Event of Default, Lender may declare that no Loan may be made, converted or continued as a LIBOR Loan.

(b) Whenever Borrowers desire to convert or continue Loans as LIBOR Loans, Borrower Agent shall give Lender a Notice of Conversion/Continuation, no later than 11:00 a.m. at least two Business Days before the requested conversion or continuation date. Each Notice of Conversion/Continuation shall be irrevocable, and shall specify the amount of Loans to be converted or continued, the conversion or continuation date (which shall be a Business Day), and the duration of the Interest Period (which shall be deemed to be 30 days if not specified). If, upon the expiration of any Interest Period in respect of any LIBOR Loans, Borrowers shall have failed to deliver a Notice of Conversion/Continuation, they shall be deemed to have elected to convert such Loans into Base Rate Loans.

3.1.3. Interest Periods. In connection with the making, conversion or continuation of any LIBOR Loans, Borrowers shall select an interest period ("Interest Period") to apply, which interest period shall be 30, 60, or 90 days (if available from Lender); provided, however, that:

(a) the Interest Period shall begin on the date the Loan is made or continued as, or converted into, a LIBOR Loan, and shall expire on the numerically corresponding day in the calendar month at its end;

(b) if any Interest Period begins on a day for which there is no corresponding day in the calendar month at its end or if such corresponding day falls after the last Business Day of such month, then the Interest Period shall expire on the last Business Day of such month; and if any Interest Period would otherwise expire on a day that is not a Business Day, the period shall expire on the next Business Day; and

(c) no Interest Period shall extend beyond the Revolver Termination Date; and no Interest Period for a LIBOR Term Loan may be established that would require repayment before the end of an Interest Period in order to make any scheduled principal payment on the Term Loan.

3.1.4. **Interest Rate Not Ascertainable.** If, due to any circumstance affecting the London interbank market, Lender determines that adequate and fair means do not exist for ascertaining LIBOR on any applicable date or that any Interest Period is not available on the basis provided herein, then Lender shall immediately notify Borrowers of such determination. Until Lender notifies Borrowers that such circumstance no longer exists, the obligation of Lender to make affected LIBOR Loans shall be suspended and no further Loans may be converted into or continued as such LIBOR Loans.

3.2. **Fees.**

3.2.1. **Unused Line Fee.** Borrowers shall pay to Lender a fee equal to the Unused Line Fee Rate times the amount by which the Revolver Commitment exceeds the average daily Revolver Usage during the immediately preceding month (or, in the case of such payment made on the Commitment Termination Date, during the period commencing on the date the immediately preceding unused line fee was due and ending on the Commitment Termination Date). Such fee shall be payable in arrears, commencing on August 1, 2015, on the first day of each month thereafter and on the Commitment Termination Date.

3.2.2. **LC Facility Fees.** Borrowers shall pay to Lender (a) a fee equal to the Applicable Margin in effect for LIBOR Revolver Loans times the average daily Stated Amount of Letters of Credit, which fee shall be payable monthly in arrears, on the first day of each month; (b) a fronting fee equal to 0.125% per annum on the Stated Amount of each Letter of Credit, which fee shall be payable monthly in arrears, on the first day of each month; and (c) all customary charges associated with the issuance, amending, negotiating, payment, processing, transfer and administration of Letters of Credit, which charges shall be paid as and when incurred. During an Event of Default, the fee payable under clause (a) shall be increased by 2% per annum.

3.2.3. **Closing Fee.** On the Closing Date, Borrowers shall pay to Lender a closing fee of \$45,575.00.

3.3. **Computation of Interest, Fees, Yield Protection.** All interest, as well as fees and other charges calculated on a per annum basis, shall be computed for the actual days elapsed, based on a year of 360 days. Each determination by Lender of any interest, fees or interest rate hereunder shall be final, conclusive and binding for all purposes, absent manifest error. All fees shall be fully earned when due and shall not be subject to rebate, refund or proration. All fees payable under **Section 3.2** are compensation for services and are not, and shall not be deemed to be, interest or any other charge for the use, forbearance or detention of money. A certificate as to amounts payable by Borrowers under **Section 3.4, 3.6, 3.7, 3.9** or **5.8**, submitted to Borrower Agent by Lender shall be final, conclusive and binding for all purposes, absent manifest error, and Borrowers shall pay such amounts to the appropriate party within 10 days following receipt of the certificate.

3.4. **Reimbursement Obligations.** Borrowers shall pay all Extraordinary Expenses promptly upon request. Borrowers shall also reimburse Lender for all reasonable and documented legal, accounting, appraisal, consulting, and other fees, costs and expenses incurred by it in connection with (a) negotiation and preparation of any Loan Documents, including any amendment or other modification thereof; (b) administration of and actions relating to any Collateral, Loan Documents and transactions contemplated thereby, including any actions taken to perfect or maintain priority of Lender's Liens on any Collateral, to maintain any insurance required hereunder or to verify Collateral; and (c) subject to the limits of **Section 10.1.1(b)**, each inspection, audit or appraisal with respect to any Obligor or Collateral, whether prepared by Lender's personnel or a third party. All legal, accounting and consulting fees shall be charged to Borrowers by Lender's professionals at their full hourly rates, regardless of any alternative fee arrangements that Lender or any of its Affiliates may have with such professionals that otherwise might apply to this or any other transaction. Borrowers acknowledge that counsel may provide Lender with a benefit (such as a discount, credit or accommodation for other matters) based on counsel's overall relationship with Lender, including fees paid hereunder. If, for any reason (including inaccurate reporting by any Borrower), it is reasonably determined that a higher Applicable Margin should have applied to a period than was actually applied, then, following Lender's consultation with Borrower Agent, the proper margin shall be applied retroactively and Borrowers shall immediately pay to Lender an amount equal to the difference between the amount of interest and fees that would have accrued using the proper margin and the amount actually paid. All amounts payable by Borrowers under this Section shall be due **on demand**.

3.5. Illegality. If Lender determines that any Applicable Law has made it unlawful, or that any Governmental Authority has asserted that it is unlawful, for Lender to make, maintain or fund LIBOR Loans, or to determine or charge interest rates based upon LIBOR, or any Governmental Authority has imposed material restrictions on the authority of Lender to purchase or sell, or to take deposits of, Dollars in the London interbank market, then, on notice thereof by Lender to Borrower Agent, any obligation of Lender to make or continue LIBOR Loans or to convert Base Rate Loans to LIBOR Loans shall be suspended until Lender notifies Borrower Agent that the circumstances giving rise to such determination no longer exist. Upon delivery of such notice, Borrowers shall prepay or, if applicable, convert all LIBOR Loans to Base Rate Loans, either on the last day of the Interest Period therefor, if Lender may lawfully continue to maintain LIBOR Loans to such day, or immediately, if Lender may not lawfully continue to maintain LIBOR Loans. Upon any such prepayment or conversion, Borrowers shall also pay accrued interest on the amount so prepaid or converted.

3.6. Inability to Determine Rates. If Lender notifies Borrower Agent in connection with a Borrowing, conversion or continuation of a LIBOR Loan that for any reason (a) Dollar deposits are not being offered to banks in the London interbank Eurodollar market for the applicable Loan amount or Interest Period, (b) adequate and reasonable means do not exist for determining LIBOR for the applicable Interest Period, or (c) LIBOR for the applicable Interest Period does not adequately and fairly reflect the cost to Lender of funding the Loan, then Lender's obligation to make or maintain LIBOR Loans shall be suspended to the extent of the affected LIBOR Loan or Interest Period until Lender revokes the notice. Upon receipt of the notice, Borrower Agent may revoke any pending request for a Borrowing, conversion or continuation of a LIBOR Loan or, failing that, will be deemed to have submitted a request for a Base Rate Loan.

3.7. Increased Costs; Capital Adequacy.

3.7.1. Increased Costs Generally. If any Change in Law shall:

(a) impose, modify or deem applicable any reserve, liquidity, special deposit, compulsory loan, insurance charge or similar requirement against assets of, deposits with or for the account of, or credit extended or participated in by, Lender (except any reserve requirement reflected in LIBOR);

(b) subject any Recipient to Taxes (other than (i) Indemnified Taxes, (ii) Taxes described in clause (b) of the definition of Excluded Taxes, or (iii) Connection Income Taxes) with respect to any Loan, Letter of Credit, Commitment or other obligations, or its deposits, reserves, other liabilities or capital attributable thereto; or

(c) impose on Lender or any interbank market any other condition, cost or expense affecting any Loan, Letter of Credit, Commitment or Loan Document;

and the result thereof shall be to increase the cost to Lender of making or maintaining any Loan or Commitment, or converting to or continuing any interest option for a Loan, or to increase the cost to Lender of issuing or maintaining any Letter of Credit (or of maintaining its obligation to issue a Letter of Credit), or to reduce the amount of any sum received or receivable by Lender hereunder (whether of principal, interest or any other amount) then, upon request by Lender, Borrowers will pay to Lender such additional amount or amounts as will compensate Lender for such additional costs incurred or reduction suffered.

3.7.2. **Capital Requirements.** If Lender determines that a Change in Law affecting Lender or its holding company regarding capital or liquidity requirements has or would have the effect of reducing the rate of return on Lender's or such holding company's capital as a consequence of this Agreement, Commitments, Loans or Letters of Credit to a level below that which Lender or such holding company could have achieved but for such Change in Law (taking into consideration its policies with respect to capital adequacy), then from time to time Borrowers will pay to Lender such additional amounts as will compensate it or its holding company for the reduction suffered.

3.7.3. **LIBOR Loan Reserves.** If Lender is required to maintain reserves with respect to liabilities or assets consisting of or including Eurocurrency funds or deposits, Borrowers shall pay additional interest to Lender on each LIBOR Loan equal to the costs of such reserves allocated to the Loan by Lender (as determined by it in good faith, which determination shall be conclusive). The additional interest shall be due and payable on each interest payment date for the Loan; provided, however, that if Lender notifies Borrowers of the additional interest less than 10 days prior to the interest payment date, then the additional interest shall be payable 10 days after Borrowers' receipt of the notice.

3.7.4. **Compensation.** Failure or delay on the part of Lender to demand compensation pursuant to this Section shall not constitute a waiver of its right to demand such compensation, but Borrowers shall not be required to compensate Lender for any increased costs or reductions suffered more than nine months (plus any period of retroactivity of the Change in Law giving rise to the demand) prior to the date that Lender notifies Borrower Agent of the applicable Change in Law and of Lender's intention to claim compensation therefor.

3.8. **Mitigation.** If Lender gives a notice under **Section 3.5** or requests compensation under **Section 3.7**, or if Borrowers are required to pay any Indemnified Taxes or additional amounts under **Section 5.8**, then at the request of Borrower Agent, Lender shall use reasonable efforts to designate a different lending office or to assign its rights and obligations hereunder to another of its offices, branches or Affiliates, if, in the judgment of Lender, such designation or assignment (a) would eliminate the need for such notice or reduce amounts payable or to be withheld in the future, as applicable; and (b) would not subject Lender to any unreimbursed cost or expense and would not otherwise be disadvantageous to it or unlawful. Borrowers shall pay all reasonable costs and expenses incurred by Lender in connection with any such designation or assignment.

3.9. **Funding Losses.** If for any reason (a) any Borrowing, conversion or continuation of a LIBOR Loan does not occur on the date specified therefor in a Notice of Borrowing or Notice of Conversion/Continuation (whether or not withdrawn), (b) any repayment or conversion of a LIBOR Loan occurs on a day other than the end of its Interest Period, or (c) Borrowers fail to repay a LIBOR Loan when required hereunder, then Borrowers shall pay to Lender all resulting losses and expenses, including loss of anticipated profits and any loss, expense or fee arising from redeployment of funds or termination of match fundings. For purposes of calculating amounts payable under this Section, Lender shall be deemed to have funded a LIBOR Loan by a matching deposit or other borrowing in the London interbank market for a comparable amount and period, whether or not the Loan was in fact so funded.

3.10. Maximum Interest. Notwithstanding anything to the contrary contained in any Loan Document, the interest paid or agreed to be paid under the Loan Documents shall not exceed the maximum rate of non-usurious interest permitted by Applicable Law ("maximum rate"). If Lender shall receive interest in an amount that exceeds the maximum rate, the excess interest shall be applied to the principal of the Obligations or, if it exceeds such unpaid principal, refunded to Borrowers. In determining whether the interest contracted for, charged or received by Lender exceeds the maximum rate, Lender may, to the extent permitted by Applicable Law, (a) characterize any payment that is not principal as an expense, fee or premium rather than interest; (b) exclude voluntary prepayments and the effects thereof; and (c) amortize, prorate, allocate and spread in equal or unequal parts the total amount of interest throughout the contemplated term of the Obligations hereunder.

SECTION 4. LOAN ADMINISTRATION

4.1. Manner of Borrowing and Funding Revolver Loans

4.1.1. Notice of Borrowing.

(a) Whenever Borrowers desire funding of a Revolver Loan, Borrower Agent shall give Lender a Notice of Borrowing. Such notice must be received by Lender by 11:00 a.m. (i) on the requested funding date for a Base Rate Loan, and (ii) at least two Business Days prior to the requested funding date for a LIBOR Loan. Notices received after such time shall be deemed received on the next Business Day. Each Notice of Borrowing shall be irrevocable and shall specify (A) the amount of the Borrowing, (B) the requested funding date (which must be a Business Day), (C) whether the Borrowing is to be made as a Base Rate Loan or LIBOR Loan, and (D) in the case of a LIBOR Loan, the applicable Interest Period (which shall be deemed to be 30 days if not specified).

(b) Unless payment is otherwise made by Borrowers, the becoming due of any Obligation (whether principal, interest, fees or other charges, including Extraordinary Expenses, LC Obligations, Cash Collateral and Bank Product Debt) shall be deemed to be a request for a Base Rate Revolver Loan on the due date in the amount due and the Loan proceeds shall be disbursed as direct payment of such Obligation. In addition, Lender may, at its option, charge such amount against any operating, investment or other account of a Borrower maintained with Lender or any of its Affiliates.

(c) If a Borrower maintains a disbursement account with Lender or any of its Affiliates, then presentation for payment in the account of a Payment Item when there are insufficient funds to cover it shall be deemed to be a request for a Base Rate Revolver Loan on the presentation date, in the amount of the Payment Item. Proceeds of the Loan may be disbursed directly to the account.

4.1.2. Notices. Borrowers may request, convert or continue Loans, select interest rates, and transfer funds based on telephonic or e-mailed instructions to Lender. Borrowers shall confirm each such request by prompt delivery to Lender of a Notice of Borrowing or Notice of Conversion/Continuation, if applicable, but if it differs materially from the action taken by Lender, the records of Lender shall govern. Lender shall not have any liability for any loss suffered by a Borrower as a result of Lender acting upon its understanding of telephonic or e-mailed instructions from a person believed in good faith to be a person authorized to give such instructions on a Borrower's behalf.

4.2. Number and Amount of LIBOR Loans; Determination of Rate. Each Borrowing of LIBOR Loans when made shall be in a minimum amount of \$500,000, plus any increment of \$100,000 in excess thereof. No more than 5 Borrowings of LIBOR Loans may be outstanding at any time, and all LIBOR Loans having the same length and beginning date of their Interest Periods shall be aggregated together and considered one Borrowing for this purpose. Upon determining LIBOR for any Interest Period requested by Borrowers, Lender shall promptly notify Borrowers thereof by telephone or electronically and, if requested by Borrowers, shall confirm any telephonic notice in writing.

4.3. Borrower Agent. Each Borrower hereby designates Marquis ("Borrower Agent") as its representative and agent for all purposes under the Loan Documents, including requests for and receipt of Loans and Letters of Credit, designation of interest rates, delivery or receipt of communications, delivery of Borrowing Base and financial information and reports, payment of Obligations, requests for waivers, amendments or other accommodations, actions under the Loan Documents (including in respect of compliance with covenants), and all other dealings with Lender. Borrower Agent hereby accepts such appointment. Lender shall be entitled to rely upon, and shall be fully protected in relying upon, any notice or communication (including any Notice of Borrowing) delivered by Borrower Agent on behalf of any Borrower. Lender may give any notice or communication with a Borrower hereunder to Borrower Agent on behalf of such Borrower. Lender shall have the right, in its discretion, to deal exclusively with Borrower Agent for all purposes under the Loan Documents. Each Borrower agrees that any notice, election, communication, delivery, representation, agreement, action or undertaking on its behalf by Borrower Agent shall be binding upon and enforceable against it.

4.4. One Obligation. The Loans, LC Obligations and other Obligations shall constitute one general obligation of Borrowers and are secured by Lender's Lien on all Collateral; provided, however, that Lender shall be deemed to be a creditor of, and the holder of a separate claim against, each Borrower to the extent of any Obligations jointly or severally owed by such Borrower.

4.5. Effect of Termination. On the effective date of the termination of the Revolver Commitment, the Obligations shall be immediately due and payable, and each Secured Party may terminate its Bank Products. Until Full Payment of the Obligations, all undertakings of Borrowers contained in the Loan Documents shall continue, and Lender shall retain its Liens in the Collateral and all of its rights and remedies under the Loan Documents. Lender shall not be required to terminate its Liens unless it receives Cash Collateral or a written agreement, in each case reasonably satisfactory to it, protecting it from dishonor or return of any Payment Item previously applied to the Obligations. **Sections 2.3, 3.4, 3.6, 3.7, 3.9, 5.5, 5.8, 12.2,** this Section, and each indemnity or waiver given by an Obligor in any Loan Document, shall survive Full Payment of the Obligations.

SECTION 5. PAYMENTS

5.1. General Payment Provisions. All payments of Obligations shall be made in Dollars, without offset, counterclaim or defense of any kind, free and clear of (and without deduction for) any Taxes, and in immediately available funds, not later than 12:00 noon on the due date. Any payment after such time shall be deemed made on the next Business Day. Any payment of a LIBOR Loan prior to the end of its Interest Period shall be accompanied by all amounts due under **Section 3.9**. Borrowers agree that Lender shall have the continuing, exclusive right to apply and reapply payments and proceeds of Collateral against Obligations, in such manner as Lender deems advisable, but whenever possible, any prepayment of Loans shall be applied first to Base Rate Loans and then to LIBOR Loans.

5.2. Repayment of Revolver Loans. Revolver Loans shall be due and payable in full on the Revolver Termination Date, unless payment is sooner required hereunder. Revolver Loans may be prepaid from time to time, without penalty or premium. If an Overadvance exists at any time, Borrowers shall, on the sooner of Lender's demand or the first Business Day after any Borrower has knowledge thereof, repay Revolver Loans in an amount sufficient to reduce Revolver Usage to the Borrowing Base. If any Asset Disposition includes the disposition of Accounts or Inventory, Borrowers shall apply Net Proceeds to repay Revolver Loans equal to the greater of (a) the net book value of such Accounts and Inventory, or (b) the reduction in Borrowing Base resulting from the disposition.

5.3. Repayment of Term Loan.

5.3.1. Payment of Principal. The Term Loan shall be repaid on the first day of each month in consecutive monthly installments of \$79,612, commencing on August 1, 2015 and continuing through the Term Loan Maturity Date, on which date all principal, interest and other amounts owing with respect to the Term Loan shall be due and payable in full. Once repaid, whether such repayment is voluntary or required, no portion of the Term Loan may be reborrowed.

5.3.2. Mandatory Prepayments.

(a) Concurrently with any Permitted Asset Disposition of Equipment or Real Estate, Borrowers shall prepay the Term Loan in an amount equal to the Net Proceeds of such disposition;

(b) Concurrently with the receipt of any proceeds of insurance or condemnation awards paid in respect of any Equipment or Real Estate, Borrowers shall prepay the Term Loan in an amount equal to such proceeds, subject to **Section 8.6.2**;

(c) Concurrently with any issuance of Equity Interests by a Borrower, Borrowers shall prepay the Term Loan in an amount equal to the net proceeds of such issuance; and

(d) On the Commitment Termination Date, Borrowers shall prepay the entire Term Loan (unless sooner repaid hereunder).

5.3.3. Optional Prepayments. Borrowers may, at their option from time to time, prepay the Term Loan, which prepayment must be at least \$100,000, plus any increment of \$100,000 in excess thereof. Borrowers shall give written notice to Lender of an intended prepayment of the Term Loan, which notice shall specify the amount of the prepayment, shall be irrevocable once given, shall be given at least 5 Business Days prior to the end of a month and shall be effective as of the first day of the next month.

5.3.4. Interest; Application of Prepayments. Each prepayment of the Term Loan shall be accompanied by all interest accrued thereon and any amounts payable under **Section 3.9**, and shall be applied to principal in inverse order of maturity.

5.4. Payment of Other Obligations. Obligations other than Loans, including LC Obligations and Extraordinary Expenses, shall be paid by Borrowers as provided in the Loan Documents or, if no payment date is specified, **on demand**.

5.5. Marshaling; Payments Set Aside. Lender shall have no obligation to marshal any assets in favor of any Obligor or against any Obligations. If any payment by or on behalf of Borrowers is made to Lender or if Lender exercises a right of setoff, and any of such payment or setoff is subsequently invalidated, declared to be fraudulent or preferential, set aside or required (including pursuant to any settlement entered into by Lender in its discretion) to be repaid to a trustee, receiver or any other Person, then the Obligation originally intended to be satisfied, and all Liens, rights and remedies relating thereto, shall be revived and continued in full force and effect as if such payment or setoff had not occurred.

5.6. Application of Payments; Dominion Account. The ledger balance in the main Dominion Account as of the end of a Business Day shall be applied to the Obligations at the beginning of the next Business Day. If a credit balance results from such application, it shall not accrue interest in favor of Borrowers and shall be made available to Borrowers as long as no Default or Event of Default exists. Notwithstanding anything herein to the contrary, monies and collateral proceeds obtained from an Obligor shall not be applied to repayment of its Excluded Swap Obligations.

5.7. Account Stated. Lender shall maintain, in accordance with its customary practices, loan account(s) evidencing the Debt of Borrowers hereunder. Any failure of Lender to record anything in a loan account, or any error in doing so, shall not limit or otherwise affect the obligation of Borrowers to pay any amount owing hereunder. Entries made in a loan account shall constitute presumptive evidence of the information contained therein. If any information contained in a loan account is provided to or inspected by any Person, the information shall be conclusive and binding on such Person for all purposes absent manifest error, except to the extent such Person notifies Lender in writing within 30 days after receipt or inspection that specific information is subject to dispute.

5.8. Taxes.

5.8.1. Payments Free of Taxes; Obligation to Withhold; Tax Payment.

(a) All payments of Obligations by Obligors shall be made without deduction or withholding for any Taxes, except as required by Applicable Law. If Applicable Law (as determined by Lender in its discretion) requires the deduction or withholding of any Tax from any such payment by a Recipient or Obligor, then the Recipient or Obligor shall be entitled to make such deduction or withholding based on information and documentation provided pursuant to this Section.

(b) If a Recipient or Obligor is required by the Code to withhold or deduct Taxes, including backup withholding and withholding taxes, from any payment, then the Recipient shall pay the full amount that it determines is to be withheld or deducted to the relevant Governmental Authority pursuant to the Code. If a Recipient or Obligor is required by any Applicable Law other than the Code to withhold or deduct Taxes from any payment, then the Recipient or Obligor, to the extent required by Applicable Law, shall timely pay the full amount to be withheld or deducted to the relevant Governmental Authority. In each case, to the extent the withholding or deduction is made on account of Indemnified Taxes, the sum payable by the applicable Obligor shall be increased as necessary so that the Recipient receives an amount equal to the sum it would have received had no such withholding or deduction been made.

(c) Without limiting the foregoing, Borrowers shall timely pay all Other Taxes to the relevant Governmental Authority in accordance with Applicable Law or, at Lender's option, timely reimburse Lender for payment thereof.

5.8.2. Tax Indemnification. Borrowers shall indemnify and hold harmless, on a joint and several basis, each Recipient against any Indemnified Taxes (including those imposed or asserted on or attributable to amounts payable under this Section) payable or paid by a Recipient or required to be withheld or deducted from a payment to a Recipient, and any penalties, interest and reasonable expenses arising therefrom or with respect thereto, whether or not such Indemnified Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. Borrowers shall make payment within 10 days after demand for any amount or liability payable under this Section. A certificate delivered to Borrowers by Lender (for itself or on behalf of a Recipient) as to the amount of such payment or liability, shall be conclusive absent manifest error.

5.8.3. Evidence of Payments. If Lender or an Obligor pays any Taxes pursuant to this Section, then upon request, Lender or Borrower Agent, as applicable, shall deliver to the other a copy of a receipt issued by the appropriate Governmental Authority evidencing the payment, a copy of any return required by Applicable Law to report the payment, or other evidence of payment reasonably satisfactory to the requesting party.

5.8.4. Treatment of Certain Refunds. If Lender determines in its discretion that it or another Recipient has received a refund of any Taxes that were indemnified by Borrowers or with respect to which a Borrower paid additional amounts pursuant to this Section, Lender shall pay or shall cause the other Recipient to pay to Borrowers the amount of such refund (but only to the extent of indemnity payments made, or additional amounts paid, by Borrowers with respect to the Taxes giving rise to the refund), net of all out-of-pocket expenses (including Taxes) incurred by the Recipient and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund). Borrowers shall, upon request by Lender, repay to the Recipient any refund amount so paid over to Borrowers (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) if the Recipient is required to repay such refund to the Governmental Authority. Notwithstanding anything herein to the contrary, no Recipient shall be required to pay any amount to Borrowers if such payment would place the Recipient in a less favorable net after-Tax position than it would have been in if the Tax subject to indemnification and giving rise to such refund had not been deducted, withheld or otherwise imposed and the indemnification payments or additional amounts with respect to such Tax had never been paid. In no event shall any Recipient be required to make its tax returns (or any other information relating to its taxes that it deems confidential) available to any Obligor or other Person.

5.8.5. Status of Lender. If Lender is entitled to an exemption from or reduction of withholding Tax with respect to payments of Obligations, it shall deliver to Borrowers properly completed and executed documentation reasonably requested by Borrowers as will permit such payments to be made without or at a reduced rate of withholding. In addition, Lender, if reasonably requested by Borrowers, shall deliver such other documentation prescribed by Applicable Law as is necessary to enable Borrowers to determine whether Lender is subject to backup withholding or information reporting requirements. Notwithstanding the foregoing, such documentation shall not be required if Lender believes delivery of the documentation would subject it to any material unreimbursed cost or expense or would materially prejudice its legal or commercial position.

5.8.6. Documentation. Without limiting the foregoing, Lender shall deliver to Borrowers, from time to time upon reasonable request, executed originals of IRS Form W-9 or W-8BEN, certifying that Lender is exempt from U.S. federal backup withholding Tax. If payment of any Obligation to Lender would be subject to U.S. federal withholding Tax imposed by FATCA if Lender were to fail to comply with the applicable reporting requirements of FATCA (including those contained in Section 1471(b) or 1472(b) of the Code), Lender shall deliver to Borrowers at the time(s) prescribed by law and otherwise as reasonably requested by Borrowers such documentation prescribed by Applicable Law (including Section 1471(b)(3)(C)(i) of the Code) and such additional documentation reasonably requested by Borrowers as may be necessary for them to comply with their obligations under FATCA and to determine that Lender has complied with its obligations under FATCA or to determine the amount to deduct and withhold from such payment. Solely for purposes of the preceding sentence, "FATCA" shall include any amendments made to FATCA after the date hereof. If any form or certification delivered by Lender pursuant to this Section expires or becomes obsolete or inaccurate in any respect, Lender shall update the form or certification or notify Borrowers in writing of its inability to do so.

5.8.7. Survival. Each party's obligations under this **Section 5.8** shall survive any assignment by Lender of rights or obligations hereunder, termination of the Commitments, and any repayment, satisfaction, discharge or Full Payment of any Obligations.

5.9. Nature and Extent of Each Borrower's Liability.

5.9.1. Joint and Several Liability. Each Borrower agrees that it is jointly and severally liable for, and absolutely and unconditionally guarantees to Lender the prompt payment and performance of, all Obligations, except its Excluded Swap Obligations. Each Borrower agrees that its guaranty obligations hereunder constitute a continuing guaranty of payment and performance and not of collection, that such obligations shall not be discharged until Full Payment of the Obligations, and that such obligations are absolute and unconditional, irrespective of (a) the genuineness, validity, regularity, enforceability, subordination or any future modification of, or change in, any Obligations or Loan Document, or any other document, instrument or agreement to which any Obligor is or may become a party or be bound; (b) the absence of any action to enforce this Agreement (including this Section) or any other Loan Document, or any waiver, consent or indulgence of any kind by Lender with respect thereto; (c) the existence, value or condition of, or failure to perfect a Lien or to preserve rights against, any security or guaranty for any Obligations or any action, or the absence of any action, by Lender in respect thereof (including the release of any security or guaranty); (d) the insolvency of any Obligor; (e) any election by Lender in an Insolvency Proceeding for the application of Section 1111(b)(2) of the Bankruptcy Code; (f) any borrowing or grant of a Lien by any other Borrower, as debtor-in-possession under Section 364 of the Bankruptcy Code or otherwise; (g) the disallowance of any claims of Lender against any Obligor for the repayment of any Obligations under Section 502 of the Bankruptcy Code or otherwise; or (h) any other action or circumstances that might otherwise constitute a legal or equitable discharge or defense of a surety or guarantor, except Full Payment of the Obligations.

5.9.2. Waivers.

(a) Each Borrower expressly waives all rights that it may have now or in the future under any statute, at common law, in equity or otherwise, to compel Lender to marshal assets or to proceed against any Obligor, other Person or security for the payment or performance of any Obligations before, or as a condition to, proceeding against such Borrower. Each Borrower waives all defenses available to a surety, guarantor or accommodation co-obligor other than Full Payment of Obligations and waives, to the maximum extent permitted by law, any right to revoke any guaranty of Obligations as long as it is a Borrower. It is agreed among each Borrower and Lender that the provisions of this **Section 5.9** are of the essence of the transaction contemplated by the Loan Documents and that, but for such provisions, Lender would decline to make Loans and issue Letters of Credit. Each Borrower acknowledges that its guaranty pursuant to this Section is necessary to the conduct and promotion of its business, and can be expected to benefit such business.

(b) Lender may, in its discretion, pursue such rights and remedies as it deems appropriate, including realization upon Collateral or any Real Estate by judicial foreclosure or nonjudicial sale or enforcement, without affecting any rights and remedies under this **Section 5.9**. If, in taking any action in connection with the exercise of any rights or remedies, Lender shall forfeit any other rights or remedies, including the right to enter a deficiency judgment against any Borrower or other Person, whether because of any Applicable Laws pertaining to "election of remedies" or otherwise, each Borrower consents to such action and waives any claim based upon it, even if the action may result in loss of any rights of subrogation that any Borrower might otherwise have had. Any election of remedies that results in denial or impairment of the right of Lender to seek a deficiency judgment against any Borrower shall not impair any other Borrower's obligation to pay the full amount of the Obligations. Each Borrower waives all rights and defenses arising out of an election of remedies, such as nonjudicial foreclosure with respect to any security for Obligations, even though that election of remedies destroys such Borrower's rights of subrogation against any other Person. Lender may bid Obligations, in whole or part, at any foreclosure, trustee or other sale, including any private sale, and the amount of such bid need not be paid by Lender but shall be credited against the Obligations. The amount of the successful bid at any such sale, whether Lender or any other Person is the successful bidder, shall be conclusively deemed to be the fair market value of the Collateral, and the difference between such bid amount and the remaining balance of the Obligations shall be conclusively deemed to be the amount of the Obligations guaranteed under this **Section 5.9**, notwithstanding that any present or future law or court decision may have the effect of reducing the amount of any deficiency claim to which Lender might otherwise be entitled but for such bidding at any such sale.

5.9.3. Extent of Liability; Contribution.

(a) Notwithstanding anything herein to the contrary, each Borrower's liability under this **Section 5.9** shall not exceed the greater of (i) all amounts for which such Borrower is primarily liable, as described in clause (c) below, and (ii) such Borrower's Allocable Amount.

(b) If any Borrower makes a payment under this **Section 5.9** of any Obligations (other than amounts for which such Borrower is primarily liable) (a "Guarantor Payment") that, taking into account all other Guarantor Payments previously or concurrently made by any other Borrower, exceeds the amount that such Borrower would otherwise have paid if each Borrower had paid the aggregate Obligations satisfied by such Guarantor Payments in the same proportion that such Borrower's Allocable Amount bore to the total Allocable Amounts of all Borrowers, then such Borrower shall be entitled to receive contribution and indemnification payments from, and to be reimbursed by, each other Borrower for the amount of such excess, ratably based on their respective Allocable Amounts in effect immediately prior to such Guarantor Payment. The "Allocable Amount" for any Borrower shall be the maximum amount that could then be recovered from such Borrower under this **Section 5.9** without rendering such payment voidable under Section 548 of the Bankruptcy Code or under any applicable state fraudulent transfer or conveyance act, or similar statute or common law.

(c) **Section 5.9.3(a)** shall not limit the liability of any Borrower to pay or guarantee Loans made directly or indirectly to it (including Loans advanced hereunder to any other Person and then re-loaned or otherwise transferred to, or for the benefit of, such Borrower), LC Obligations relating to Letters of Credit issued to support its business, Bank Products incurred to support its business, and all accrued interest, fees, expenses and other related Obligations with respect thereto, for which such Borrower shall be primarily liable for all purposes hereunder. Lender shall have the right, at any time in its discretion, to condition Loans and Letters of Credit upon a separate calculation of borrowing availability for each Borrower and to restrict the disbursement and use of Loans and Letters of Credit to a Borrower based on that calculation.

(d) Each Obligor that is a Qualified ECP when its guaranty of or grant of Lien as security for a Swap Obligation becomes effective hereby jointly and severally, absolutely, unconditionally and irrevocably undertakes to provide such funds or other support to each Specified Obligor with respect to such Swap Obligation as may be needed by such Specified Obligor from time to time to honor all of its obligations under the Loan Documents in respect of such Swap Obligation (but, in each case, only up to the maximum amount of such liability that can be hereby incurred without rendering such Qualified ECP's obligations and undertakings under this **Section 5.9** voidable under any applicable fraudulent transfer or conveyance act). The obligations and undertakings of each Qualified ECP under this Section shall remain in full force and effect until Full Payment of all Obligations. Each Obligor intends this Section to constitute, and this Section shall be deemed to constitute, a guarantee of the obligations of, and a "keepwell, support or other agreement" for the benefit of, each Obligor for all purposes of the Commodity Exchange Act.

5.9.4. Joint Enterprise. Each Borrower has requested that Lender make this credit facility available to Borrowers on a combined basis, in order to finance Borrowers' business most efficiently and economically. Borrowers' business is a mutual and collective enterprise, and the successful operation of each Borrower is dependent upon the successful performance of the integrated group. Borrowers believe that consolidation of their credit facility will enhance the borrowing power of each Borrower and ease administration of the facility, all to their mutual advantage. Borrowers acknowledge that Lender's willingness to extend credit and to administer the Collateral on a combined basis hereunder is done solely as an accommodation to Borrowers and at Borrowers' request.

5.9.5. Subordination. Each Borrower hereby subordinates any claims, including any rights at law or in equity to payment, subrogation, reimbursement, exoneration, contribution, indemnification or set off, that it may have at any time against any other Obligor, howsoever arising, to the Full Payment of its Obligations.

SECTION 6. CONDITIONS PRECEDENT

6.1. Conditions Precedent to Initial Loans. In addition to the conditions set forth in **Section 6.2**, Lender shall not be required to fund any requested Loan, issue any Letter of Credit or otherwise extend credit to Borrowers hereunder, until the date ("Closing Date") that each of the following conditions has been satisfied:

(a) Each Loan Document shall have been duly executed and delivered to Lender by each of the signatories thereto, and each Obligor shall be in compliance with all terms thereof.

(b) Lender shall have received acknowledgments of all filings or recordations necessary to perfect its Liens in the Collateral, as well as UCC and Lien searches and other evidence satisfactory to Lender that such Liens are the only Liens upon the Collateral, except Permitted Liens.

(c) Lender shall have received the Related Real Estate Documents for all Real Estate subject to a Mortgage.

(d) Lender shall have received duly executed agreements establishing each Dominion Account and related lockbox, in form and substance, and with financial institutions, satisfactory to Lender.

(e) Lender shall have received certificates, in form and substance satisfactory to it, from a knowledgeable Senior Officer of Borrower Agent certifying that, after giving effect to the initial Loans and transactions hereunder as well as all of the transactions contemplated under the Marquis SPA Documents and the Mezzanine Debt Documents, (i) such Borrower is Solvent; (ii) no Default or Event of Default exists; (iii) the representations and warranties set forth in **Section 9** are true and correct; and (iv) such Borrower has complied with all agreements and conditions to be satisfied by it under the Loan Documents.

(f) Lender shall have received a certificate of a duly authorized officer of each Obligor, certifying (i) that attached copies of such Obligor's Organic Documents are true and complete, and in full force and effect, without amendment except as shown; (ii) that an attached copy of resolutions authorizing execution and delivery of the Loan Documents is true and complete, and that such resolutions are in full force and effect, were duly adopted, have not been amended, modified or revoked, and constitute all resolutions adopted with respect to this credit facility; and (iii) to the title, name and signature of each Person authorized to sign the Loan Documents. Lender may conclusively rely on this certificate until it is otherwise notified by the applicable Obligor in writing.

(g) Lender shall have received a written opinion of Baker Hostetler, as well as any local counsel to Borrowers or Lender, in form and substance satisfactory to Lender.

(h) Lender shall have received copies of the charter documents of each Obligor, certified by the Secretary of State or other appropriate official of such Obligor's jurisdiction of organization. Lender shall have received good standing certificates for each Obligor, issued by the Secretary of State or other appropriate official of such Obligor's jurisdiction of organization and each jurisdiction where such Obligor's conduct of business or ownership of Property necessitates qualification.

(i) Lender shall have received copies of policies or certificates of insurance for the insurance policies carried by Borrowers, all in compliance with the Loan Documents.

(j) Lender shall have completed its business, financial and legal due diligence of Obligors, including (i) a field examination, (ii) Inventory, Equipment and Real Estate appraisals, and (iii) a review of all material pending or threatened litigation or administrative proceedings and all environmental aspects of Borrowers' business, in each case with results satisfactory to Lender. No material adverse change in the financial condition of any Obligor or in the quality, quantity or value of any Collateral shall have occurred since January 3, 2015.

(k) Borrowers shall have paid all fees and expenses to be paid to Lender on the Closing Date.

(l) Lender shall have received a Borrowing Base Certificate prepared as of June 29, 2015. Upon giving effect to the initial funding of Loans and issuance of Letters of Credit, and the payment by Borrowers of all fees and expenses incurred in connection herewith as well as any payables stretched beyond their customary payment practices, Availability shall be at least \$3,000,000.

(m) Borrowers shall have obtained consents and approvals from all Governmental Authorities and other third parties that are required by the Marquis SPA.

(n) All conditions precedent to the effectiveness of the Marquis SPA shall have been satisfied (and not waived unless Lender shall have approved such waiver in its discretion) and the Marquis Acquisition shall have been consummated on terms and subject to legal documentation acceptable to Lender in its discretion.

(o) Lender shall have received copies of the fully-executed Marquis SPA and the Marquis SPA Documents, certified by an officer of Borrower Agent to be true, correct and complete.

(p) All conditions precedent to the effectiveness of the Equity Contribution Documents shall have been satisfied (and not waived unless Lender shall have approved such waiver in its discretion) and the Equity Contribution shall have been consummated on terms and subject to legal documentation acceptable to Lender in its discretion.

(q) The transactions contemplated by the Mezzanine Debt Documents shall have been consummated on terms and subject to legal documentation acceptable to Lender in its discretion.

(r) Agent shall have received copies of the fully-executed Equity Contribution Documents and the Mezzanine Debt Documents, certified by an officer of Borrower Agent to be true, correct and complete, each of which shall be in form and substance acceptable to Lender.

(s) Lender shall have received (i) interim financial statements for Borrowers as of May 30, 2015, (ii) projections of Borrower's consolidated balance sheets, results of operations, cash flow and Availability for Fiscal Year 2015, month by month and (iii) all other financial and business information reasonably requested by Lender.

(t) Lender shall be satisfied with all aspects of Obligors' corporate, capital and ownership structure and indebtedness.

(u) Lender shall have completed all due diligence required for compliance with the PATRIOT Act and other Applicable Law and all background checks.

6.2. Conditions Precedent to All Credit Extensions. Lender shall not be required to fund any Loans, issue any Letters of Credit, or grant any other accommodation to or for the benefit of Borrowers, unless the following conditions are satisfied:

(a) No Default or Event of Default shall exist at the time of, or result from, such funding, issuance or grant;

(b) The representations and warranties of each Obligor in the Loan Documents shall be true and correct on the date of, and upon giving effect to, such funding, issuance or grant (except for representations and warranties that expressly relate to an earlier date);

(c) All conditions precedent in any other Loan Document shall be satisfied;

(d) No event shall have occurred or circumstance exist that has or could reasonably be expected to have a Material Adverse Effect; and

(e) With respect to issuance of a Letter of Credit, the LC Conditions shall be satisfied.

Each request (or deemed request) by Borrowers for funding of a Loan, issuance of a Letter of Credit or grant of an accommodation shall constitute a representation by Borrowers that the foregoing conditions are satisfied on the date of such request and on the date of such funding, issuance or grant. As an additional condition to any funding, issuance or grant, Lender shall have received such other information, documents, instruments and agreements as it deems appropriate in connection therewith.

SECTION 7. COLLATERAL

7.1. Grant of Security Interest. To secure the prompt payment and performance of its Obligations, each Borrower hereby grants to Lender a continuing security interest in and Lien upon all Property of such Borrower, including all of the following Property, whether now owned or hereafter acquired, and wherever located:

- (a) all Accounts;
- (b) all Chattel Paper, including electronic chattel paper;
- (c) all Commercial Tort Claims, including those shown on **Schedule 9.1.16**;
- (d) all Deposit Accounts;
- (e) all Documents;
- (f) all General Intangibles, including Intellectual Property;
- (g) all Goods, including Inventory, Equipment and fixtures;
- (h) all Instruments;
- (i) all Investment Property;
- (j) all Letter-of-Credit Rights;
- (k) all Supporting Obligations;
- (l) all monies, whether or not in the possession or under the control of Lender, or a bailee or Affiliate of Lender, including any Cash Collateral;
- (m) all accessions to, substitutions for, and all replacements, products, and cash and non-cash proceeds of the foregoing, including proceeds of and unearned premiums with respect to insurance policies, and claims against any Person for loss, damage or destruction of any Collateral; and
- (n) all books and records (including customer lists, files, correspondence, tapes, computer programs, print-outs and computer records) pertaining to the foregoing.

Notwithstanding anything to the contrary contained herein, in no event shall Excluded Assets constitute Collateral under this Agreement or any other Loan Document.

7.2. Lien on Deposit Accounts; Cash Collateral.

7.2.1. Deposit Accounts. To further secure the prompt payment and performance of its Obligations, each Borrower hereby grants to Lender a continuing security interest in and Lien upon all amounts credited to any Deposit Account of such Borrower, including sums in any blocked, lockbox, sweep or collection account. Each Borrower hereby authorizes and directs each bank or other depository to deliver to Lender, upon request, all balances in any Deposit Account maintained for such Borrower, without inquiry into the authority or right of Lender to make such request.

7.2.2. Cash Collateral. Cash Collateral may be invested, at Lender's discretion (and with the consent of Borrowers, as long as no Event of Default exists), but Lender shall have no duty to do so, regardless of any agreement or course of dealing with any Borrower, and shall have no responsibility for any investment or loss. As security for its Obligations, each Borrower hereby grants to Lender a security interest in and Lien upon all Cash Collateral held from time to time and all proceeds thereof, whether held in a Cash Collateral Account or otherwise. Lender may apply Cash Collateral to the payment of Obligations as they become due, in such order as Lender may elect. Each Cash Collateral Account and all Cash Collateral shall be under the sole dominion and control of Lender, and no Borrower or other Person shall have any right to any Cash Collateral, until Full Payment of the Obligations.

7.3. Real Estate Collateral.

7.3.1. Lien on Real Estate. The Obligations shall also be secured by Mortgages upon all Real Estate owned by Borrowers, including the Real Estate located at (a) 2743 Highway 76, Chatsworth, Georgia 30705, (b) 325 Smyrna Church Road, Chatsworth, Georgia 30705, (c) 242 Treadwell Road, Chatsworth, Georgia 30705, (d) 1978 Highway 52 Alt., Chatsworth, Georgia 30705, (e) 1642 Duval Road, Chatsworth, Georgia 30705, (f) 1805 South Hamilton, Dalton, Georgia 30720, and (g) 2669 Lakeland Road, Dalton, Georgia 30720. The Mortgages shall be duly recorded, at Borrowers' expense, in each office where such recording is required to constitute a fully perfected Lien on the Real Estate covered thereby. If any Borrower acquires Real Estate hereafter, Borrowers shall, within 30 days, execute, deliver and record a Mortgage sufficient to create a first priority Lien in favor of Lender on such Real Estate, and shall deliver all Related Real Estate Documents.

7.3.2. Collateral Assignment of Leases. To further secure the prompt payment and performance of its Obligations, each Borrower hereby transfers and assigns to Lender all of such Borrower's right, title and interest in, to and under all now or hereafter existing leases of real Property to which such Borrower is a party, whether as lessor or lessee, and all extensions, renewals, modifications and proceeds thereof.

7.4. Other Collateral.

7.4.1. Commercial Tort Claims. Borrowers shall promptly notify Lender in writing if any Borrower has a Commercial Tort Claim (other than, as long as no Default or Event of Default exists, a Commercial Tort Claim for less than \$100,000), shall promptly amend **Schedule 9.1.16** to include such claim, and shall take such actions as Lender deems appropriate to subject such claim to a duly perfected, first priority Lien in favor of Lender.

7.4.2. Certain After-Acquired Collateral. Borrowers shall promptly notify Lender in writing if, after the Closing Date, any Borrower obtains any interest in any Collateral consisting of Deposit Accounts, Chattel Paper, Documents, Instruments, Intellectual Property, Investment Property or Letter-of-Credit Rights with a face amount or representing Property having a value in excess of \$100,000 and, upon Lender's request, shall promptly take such actions as Lender deems appropriate to effect Lender's duly perfected, first priority Lien upon such Collateral, including obtaining any appropriate possession, control agreement or Lien Waiver. If any Collateral is in the possession of a third party, at Lender's request, Borrowers shall use commercially reasonable efforts to obtain an acknowledgment that such third party holds the Collateral for the benefit of Lender.

7.5. **Limitations.** The Lien on Collateral granted hereunder is given as security only and shall not subject Lender to, or in any way modify, any obligation or liability of Borrowers relating to any Collateral. In no event shall the grant of any Lien under any Loan Document secure an Excluded Swap Obligation of the granting Obligor.

7.6. **Further Assurances; Extent of Liens.** All Liens granted to Lender under the Loan Documents are for the benefit of Secured Parties. Promptly upon request, Borrowers shall deliver such instruments and agreements, and shall take such actions, as Lender deems appropriate under Applicable Law to evidence or perfect its Lien on any Collateral, or otherwise to give effect to the intent of this Agreement. Each Borrower authorizes Lender to file any financing statement that describes the Collateral as "all assets" or "all personal property" of such Borrower, or words to similar effect, and ratifies any action taken by Lender before the Closing Date to effect or perfect its Lien on any Collateral.

7.7. **Foreign Subsidiary Stock.** Notwithstanding Section 7.1, the Collateral shall include only 65% of the voting stock of any Foreign Subsidiary.

SECTION 8. COLLATERAL ADMINISTRATION

8.1. **Borrowing Base Certificates.** By Wednesday of each week, Borrowers shall deliver to Lender a Borrowing Base Certificate prepared as of the close of business of the previous Friday, by the 15th day of each month, Borrowers shall deliver to Lender a Borrowing Base Certificate prepared as of the close of business of the previous month and at such other times as Lender may request, Borrowers shall deliver to Lender a Borrowing Base Certificate. All calculations of Availability in any Borrowing Base Certificate shall originally be made by Borrowers and certified by a Senior Officer or the Treasurer, provided that Lender may from time to time review and adjust any such calculation (a) to reflect its reasonable estimate of declines in value of any Collateral, due to collections received in the Dominion Account or otherwise; (b) to adjust advance rates to reflect changes in dilution, quality, mix and other factors affecting Collateral; and (c) to the extent the calculation is not made in accordance with this Agreement or does not accurately reflect the Availability Reserve.

8.2. **Accounts.**

8.2.1. **Records and Schedules of Accounts.** Each Borrower shall keep accurate and complete records of its Accounts, including all payments and collections thereon, and shall submit to Lender sales, collection, reconciliation and other reports in form satisfactory to Lender, on such periodic basis as Lender may request. Each Borrower shall also provide to Lender, on or before the 15th day of each month, a detailed aged trial balance of all Accounts as of the end of the preceding month, specifying each Account's Account Debtor name and address, amount, invoice date and due date, showing any discount, allowance, credit, authorized return or dispute, and including such proof of delivery, copies of invoices and invoice registers, copies of related documents, repayment histories, status reports and other information as Lender may reasonably request. If Accounts in an aggregate face amount of \$250,000 or more cease to be Eligible Accounts or Eligible Factoring Credit Balances, as applicable, Borrowers shall notify Lender of such occurrence promptly (and in any event within two Business Days) after any Borrower has knowledge thereof.

8.2.2. **Taxes.** If an Account of any Borrower includes a charge for any Taxes, Lender is authorized, in its discretion, to pay the amount thereof to the proper taxing authority for the account of such Borrower and to charge Borrowers therefor; provided, however, that Lender shall not be liable for any Taxes that may be due from Borrowers or with respect to any Collateral.

8.2.3. **Account Verification.** Whether or not a Default or Event of Default exists, Lender shall have the right at any time, in the name of Lender, any designee of Lender or any Borrower, to verify the validity, amount or any other matter relating to any Accounts of Borrowers by mail, telephone or otherwise. Borrowers shall cooperate fully with Lender in an effort to facilitate and promptly conclude any such verification process.

8.2.4. Maintenance of Dominion Account. Borrowers shall maintain Dominion Accounts pursuant to lockbox or other arrangements reasonably acceptable to Lender. Borrowers shall obtain an agreement (in form and substance reasonably satisfactory to Lender) from each lockbox servicer and Dominion Account bank, establishing Lender's control over and Lien in the lockbox or Dominion Account, requiring immediate deposit of all remittances received in the lockbox to a Dominion Account, and waiving offset rights of such servicer or bank against any funds in the lockbox or Dominion Account, except offset rights for customary administrative charges. If a Dominion Account is not maintained with Lender, Lender may require immediate transfer of all funds in such account to a Dominion Account maintained with Lender. Lender assumes no responsibility to Borrowers for any lockbox arrangement or Dominion Account, including any claim of accord and satisfaction or release with respect to any Payment Items accepted by any bank.

8.2.5. Proceeds of Collateral. Borrowers shall request in writing and otherwise take all necessary steps to ensure that all payments on Accounts or otherwise relating to Collateral are made directly to a Dominion Account (or a lockbox relating to a Dominion Account). If any Borrower or Subsidiary receives cash or Payment Items with respect to any Collateral, it shall hold same in trust for Lender and promptly (not later than the next Business Day) deposit same into a Dominion Account.

8.3. Inventory.

8.3.1. Records and Reports of Inventory. Each Borrower shall keep accurate and complete records of its Inventory, including costs and daily withdrawals and additions. Each Borrower shall also provide to Lender, on or before the 15th day of each month, inventory and reconciliation reports in form satisfactory to Lender, on such periodic basis as Lender may request. Each Borrower shall conduct a physical inventory at least once per calendar year (and on a more frequent basis if requested by Lender when an Event of Default exists) and periodic cycle counts consistent with historical practices, and shall provide to Lender a report based on each such inventory and count promptly upon completion thereof, together with such supporting information as Lender may request. Lender may participate in and observe each physical count.

8.3.2. Returns of Inventory. No Borrower shall return any Inventory to a supplier, vendor or other Person, whether for cash, credit or otherwise, unless (a) such return is in the Ordinary Course of Business; (b) no Default, Event of Default or Overadvance exists or would result therefrom; (c) Lender is promptly notified if the aggregate Value of all Inventory returned in any month exceeds \$250,000; and (d) any payment received by a Borrower for a return is promptly remitted to Lender for application to the Obligations.

8.3.3. Acquisition, Sale and Maintenance. No Borrower shall acquire or accept any Inventory on consignment or approval, and shall take all steps to assure that all Inventory is produced in accordance with Applicable Law, including the FLSA. No Borrower shall sell any Inventory on consignment or approval or any other basis under which the customer may return or require a Borrower to repurchase such Inventory. Borrowers shall use, store and maintain all Inventory with reasonable care and caution, in accordance with applicable standards of any insurance and in conformity in all material respects with Applicable Law, and shall make current rent payments (within applicable grace periods provided for in leases and except in the case of a bona fide dispute or exercise of set-off rights) at all locations where any Collateral is located.

8.4. Equipment.

8.4.1. Records and Schedules of Equipment. Each Borrower shall keep accurate and complete records of its Equipment, including kind, quality, quantity, cost, acquisitions and dispositions thereof, and shall submit to Lender, on such periodic basis as Lender may request, a current schedule thereof, in form satisfactory to Lender. Promptly upon request, Borrowers shall deliver to Lender evidence of their ownership or interests in any Equipment.

8.4.2. Dispositions of Equipment. No Borrower shall sell, lease or otherwise dispose of any Equipment, without the prior written consent of Lender, other than (a) a Permitted Asset Disposition; and (b) replacement of Equipment that is worn, damaged or obsolete with Equipment of like function and value, if the replacement Equipment is acquired substantially contemporaneously with such disposition and is free of Liens.

8.4.3. Condition of Equipment. The Equipment is in good operating condition and repair, and all necessary replacements and repairs have been made so that the value and operating efficiency of the Equipment is preserved at all times, normal wear and tear and obsolescence excepted. Except for normal wear and tear and obsolescence, each Borrower shall ensure that the Equipment is mechanically and structurally sound, and capable of performing the functions for which it was designed, in accordance with manufacturer specifications. No Borrower shall permit any Equipment to become affixed to real Property unless any landlord or mortgagee delivers a Lien Waiver.

8.5. Deposit Accounts. Schedule 8.5 sets forth all Deposit Accounts maintained by Borrowers, including all Dominion Accounts as of the Closing Date. Each Borrower shall take all actions necessary to establish Lender's control of each such Deposit Account (other than an account exclusively used for payroll, payroll taxes or employee benefits, or an account containing not more than \$10,000 at any time). Each Borrower shall be the sole account holder of each Deposit Account and shall not allow any other Person (other than Lender and, subject to the Debt and Lien Subordination Agreement, Mezzanine Lender) to have control over a Deposit Account or any Property deposited therein. Each Borrower shall promptly notify Lender of any opening or closing of a Deposit Account and, with the consent of Lender, will amend Schedule 8.5 to reflect same.

8.6. General Provisions.

8.6.1. Location of Collateral. All tangible items of Collateral, other than Inventory in transit, shall at all times be kept by Borrowers at the business locations set forth in Schedule 8.6.1, except that Borrowers may (a) make sales or other dispositions of Collateral in accordance with Section 10.2.6; and (b) move Collateral to another location in the United States, upon 30 Business Days prior written notice to Lender.

8.6.2. Insurance of Collateral; Condemnation Proceeds.

(a) Each Borrower shall maintain insurance with respect to the Collateral, covering casualty, hazard, theft, malicious mischief, flood and other risks, in amounts, with endorsements and with insurers (with a Best Rating of at least A, unless otherwise approved by Lender in its discretion) satisfactory to Lender. All proceeds under each policy shall be payable to Lender. From time to time upon request, Borrowers shall deliver to Lender the originals or certified copies of its insurance policies and updated flood plain searches. Unless Lender shall agree otherwise, each policy shall include satisfactory endorsements (i) showing Lender as lender's loss payee; (ii) requiring 30 days prior written notice to Lender in the event of cancellation of the policy for any reason whatsoever; and (iii) specifying that the interest of Lender shall not be impaired or invalidated by any act or neglect of any Borrower or the owner of the Property, nor by the occupation of the premises for purposes more hazardous than are permitted by the policy. If any Borrower fails to provide and pay for any insurance, Lender may, at its option, but shall not be required to, procure the insurance and charge Borrowers therefor. Each Borrower agrees to deliver to Lender, promptly as rendered, copies of all reports made to insurance companies. While no Event of Default exists, Borrowers may settle, adjust or compromise any insurance claim, as long as the proceeds are delivered to Lender. If an Event of Default exists, only Lender shall be authorized to settle, adjust and compromise such claims.

(b) Any proceeds of insurance (other than proceeds from workers' compensation or D&O insurance) and any awards arising from condemnation of any Collateral shall be paid to Lender. Any such proceeds or awards that relate to Inventory shall be applied to payment of the Revolver Loans, and then to other Obligations, other than the Term Loan. Subject to clause (c) below, any proceeds or awards that relate to Equipment or Real Estate shall be applied first to the Term Loan, then to Revolver Loans and then to other Obligations.

(c) If requested by Borrowers in writing within 30 days after Lender's receipt of any insurance proceeds or condemnation awards relating to any loss or destruction of Equipment or Real Estate, Borrowers may use such proceeds or awards to repair or replace such Equipment or Real Estate (and until so used, the proceeds shall be held by Lender as Cash Collateral) as long as (i) no Default or Event of Default exists; (ii) such repair or replacement is promptly undertaken and concluded, in accordance with plans reasonably satisfactory to Lender; (iii) replacement buildings are constructed on the sites of the original casualties and are materially comparable in size, quality and utility to the destroyed buildings; (iv) the repaired or replaced Property is free of Liens, other than Permitted Liens that are not Purchase Money Liens; (v) Borrowers comply with disbursement procedures for such repair or replacement as Lender may reasonably require; and (vi) the aggregate amount of such proceeds or awards requested to be used by Borrowers from any single casualty or condemnation does not exceed \$750,000.

8.6.3. Protection of Collateral. All expenses of protecting, storing, warehousing, insuring, handling, maintaining and shipping any Collateral, all Taxes payable with respect to any Collateral (including any sale thereof), and all other payments required to be made by Lender to any Person to realize upon any Collateral, shall be borne and paid by Borrowers. Lender shall not be liable or responsible in any way for the safekeeping of any Collateral, for any loss or damage thereto (except for reasonable care in its custody while Collateral is in Lender's actual possession), for any diminution in the value thereof, or for any act or default of any warehouseman, carrier, forwarding agency or other Person whatsoever, but the same shall be at Borrowers' sole risk.

8.6.4. Defense of Title. Each Borrower shall take all reasonable actions to defend its title to Collateral and Lender's Liens therein against all Persons, claims and demands, except Permitted Liens.

8.7. Power of Attorney. Each Borrower hereby irrevocably constitutes and appoints Lender (and all Persons designated by Lender) as such Borrower's true and lawful attorney (and agent-in-fact) for the purposes provided in this Section. Lender, or Lender's designee, may, without notice and in either its or a Borrower's name, but at the cost and expense of Borrowers:

(a) Endorse a Borrower's name on any Payment Item or other proceeds of Collateral (including proceeds of insurance) that come into Lender's possession or control; and

(b) During an Event of Default, (i) notify any Account Debtors of the assignment of their Accounts, demand and enforce payment of Accounts, by legal proceedings or otherwise, and generally exercise any rights and remedies with respect to Accounts; (ii) settle, adjust, modify, compromise, discharge or release any Accounts or other Collateral, or any legal proceedings brought to collect Accounts or Collateral; (iii) sell or assign any Accounts and other Collateral upon such terms, for such amounts and at such times as Lender deems advisable; (iv) collect, liquidate and receive balances in Deposit Accounts or investment accounts, and take control, in any manner, of proceeds of Collateral; (v) prepare, file and sign a Borrower's name to a proof of claim or other document in a bankruptcy of an Account Debtor, or to any notice, assignment or satisfaction of Lien or similar document; (vi) receive, open and dispose of mail addressed to a Borrower, and notify postal authorities to deliver any such mail to an address designated by Lender; (vii) endorse any Chattel Paper, Document, Instrument, bill of lading, or other document or agreement relating to any Accounts, Inventory or other Collateral; (viii) use a Borrower's stationery and sign its name to verifications of Accounts and notices to Account Debtors; (ix) use information contained in any data processing, electronic or information systems relating to Collateral; (x) make and adjust claims under insurance policies; (xi) take any action as may be necessary or appropriate to obtain payment under any letter of credit, banker's acceptance or other instrument for which a Borrower is a beneficiary; and (xii) take all other actions as Lender deems appropriate to fulfill any Borrower's obligations under the Loan Documents.

SECTION 9. REPRESENTATIONS AND WARRANTIES

9.1. General Representations and Warranties. To induce Lender to enter into this Agreement and to make available the Commitments, Loans and Letters of Credit, each Borrower represents and warrants that:

9.1.1. **Organization and Qualification.** Each Borrower and Subsidiary is duly organized, validly existing and in good standing under the laws of the jurisdiction of its organization. Each Borrower and Subsidiary is duly qualified, authorized to do business and in good standing as a foreign corporation in each jurisdiction where failure to be so qualified could reasonably be expected to have a Material Adverse Effect.

9.1.2. **Power and Authority.** Each Obligor is duly authorized to execute, deliver and perform the Loan Documents to which it is a party. The execution, delivery and performance of the Loan Documents have been duly authorized by all necessary action, and do not (a) require any consent or approval of any holders of Equity Interests of any Obligor, except those already obtained; (b) contravene the Organic Documents of any Obligor; (c) violate or cause a default under any Applicable Law or Material Contract; or (d) result in or require the imposition of a Lien (other than Permitted Liens) on any Obligor's Property.

9.1.3. **Enforceability.** Each Loan Document is a legal, valid and binding obligation of each Obligor party thereto, enforceable in accordance with its terms, except as enforceability may be limited by bankruptcy, insolvency or similar laws affecting the enforcement of creditors' rights generally.

9.1.4. **Capital Structure.** **Schedule 9.1.4** shows, for each Borrower and Subsidiary, its name, jurisdiction of organization, authorized and issued Equity Interests, holders of its Equity Interests, and agreements binding on such holders with respect to such Equity Interests. Except as disclosed on **Schedule 9.1.4**, in the five years preceding the Closing Date, no Borrower or Subsidiary has acquired any substantial assets from any other Person nor been the surviving entity in a merger or combination. Each Borrower has good title to its Equity Interests in its Subsidiaries, subject only to (a) Lender's Lien and (b) to the extent subject to the Debt and Lien Subordination Agreement, the Permitted Lien in favor of the Mezzanine Lender, and all such Equity Interests are duly issued, fully paid and non-assessable. Except as set forth on **Schedule 9.1.4**, there are no outstanding purchase options, warrants, subscription rights, agreements to issue or sell, convertible interests, phantom rights or powers of attorney relating to Equity Interests of any Borrower or Subsidiary.

9.1.5. **Title to Properties; Priority of Liens.** Each Borrower and Subsidiary has good and marketable title to (or valid leasehold interests in) all of its Real Estate, and good title to all of its personal Property, including all Property reflected in any financial statements delivered to Lender, in each case free of Liens except Permitted Liens. Each Borrower and Subsidiary has paid and discharged all lawful claims that, if unpaid, could become a Lien on its Properties, other than Permitted Liens. All Liens of Lender in the Collateral are duly perfected, first priority Liens, subject only to Permitted Liens that are expressly allowed to have priority over Lender's Liens.

9.1.6. Accounts. Lender may rely, in determining which Accounts are Eligible Accounts, on all statements and representations made by Borrowers with respect thereto. Borrowers warrant, with respect to each Account at the time it is shown as an Eligible Account in a Borrowing Base Certificate, that:

- (a) it is genuine and enforceable in accordance with its terms and is not evidenced by a judgment;
- (b) it arises out of a completed, *bona fide* sale and delivery of goods in the Ordinary Course of Business, and substantially in accordance with any purchase order, contract or other document relating thereto;
- (c) it is for a sum certain, maturing as stated in the invoice covering such sale, a copy of which has been furnished or is available to Lender on request;
- (d) it is not subject to any offset, Lien (other than Lender's Lien, subject to the Debt and Lien Subordination Agreement or any subordination agreement for any other Subordinated Debt, Mezzanine Lender's Lien and any Lien of a lender of other Subordinated Debt), deduction, defense, dispute, counterclaim or other adverse condition except as arising in the Ordinary Course of Business and disclosed to Lender; and it is absolutely owing by the Account Debtor, without contingency in any respect;
- (e) no purchase order, agreement, document or Applicable Law restricts assignment of the Account to Lender (regardless of whether, under the UCC, the restriction is ineffective), and the applicable Borrower is the sole payee or remittance party shown on the invoice;
- (f) no extension, compromise, settlement, modification, credit, deduction or return has been authorized with respect to the Account, except discounts or allowances granted in the Ordinary Course of Business for prompt payment that are reflected on the face of the invoice related thereto and in the reports submitted to Lender hereunder; and
- (g) to the best of Borrowers' knowledge, (i) there are no facts or circumstances that are reasonably likely to impair the enforceability or collectability of such Account; (ii) the Account Debtor had the capacity to contract when the Account arose, continues to meet the applicable Borrower's customary credit standards, is Solvent (except to the extent clauses (f)(i) and (ii) of the definition of "Eligible Account" apply), is not contemplating or subject to an Insolvency Proceeding (except to the extent clauses (f)(i) and (ii) of the definition of "Eligible Account" apply), and has not failed, or suspended or ceased doing business; and (iii) there are no proceedings or actions threatened or pending against any Account Debtor that could reasonably be expected to have a material adverse effect on the Account Debtor's financial condition.

9.1.7. Financial Statements. The consolidated and consolidating balance sheets, and related statements of income, cash flow and shareholders equity, of Borrowers and Subsidiaries that have been and are hereafter delivered to Lender, are prepared in accordance with GAAP, and fairly present in all material respects the financial positions and results of operations of Borrowers and Subsidiaries at the dates and for the periods indicated. All projections delivered from time to time to Lender have been prepared in good faith, based on reasonable assumptions in light of the circumstances at such time. Since January 3, 2015, there has been no change in the condition, financial or otherwise, of any Borrower or Subsidiary that could reasonably be expected to have a Material Adverse Effect. No financial statement delivered to Lender at any time contains any untrue statement of a material fact, nor fails to disclose any material fact necessary to make such statement not materially misleading. Each Borrower and Subsidiary is Solvent.

9.1.8. Surety Obligations. No Borrower or Subsidiary is obligated as surety or indemnitor under any bond or other contract that assures payment or performance of any obligation of any Person, except as permitted hereunder.

9.1.9. Taxes. Each Borrower and Subsidiary has filed all federal, state and local tax returns and other reports that it is required by law to file (except where on extension authorized by Applicable Law), and has paid, or made provision for the payment of, all Taxes upon it, its income and its Properties that are due and payable, except to the extent being Properly Contested. The provision for Taxes on the books of each Borrower and Subsidiary is adequate for all years not closed by applicable statutes, and for its current Fiscal Year.

9.1.10. Brokers. Except as set forth on **Schedule 9.1.10**, there are no brokerage commissions, finder's fees or investment banking fees payable in connection with any transactions contemplated by the Loan Documents.

9.1.11. Intellectual Property. Each Borrower and Subsidiary owns or has the lawful right to use all material Intellectual Property necessary for the conduct of its business, without conflict with any rights of others. There is no pending or, to any Borrower's knowledge, threatened Intellectual Property Claim with respect to any Borrower, any Subsidiary or any of their Property (including any Intellectual Property). Except as disclosed on **Schedule 9.1.11**, no Borrower or Subsidiary pays or owes any Royalty or other compensation to any Person with respect to any Intellectual Property. All Intellectual Property (other than off-the-shelf software) owned, used or licensed by, or otherwise subject to any interests of, any Borrower or Subsidiary, as of the Closing Date, is shown on **Schedule 9.1.11**.

9.1.12. Governmental Approvals. Each Borrower and Subsidiary has, is in compliance in all material respects with, and is in good standing with respect to, all Governmental Approvals necessary to conduct its business and to own, lease and operate its Properties. All necessary import, export or other licenses, permits or certificates for the import or handling of any goods or other Collateral have been procured and are in effect, and Borrowers and Subsidiaries have complied with all foreign and domestic laws with respect to the shipment and importation of any goods or Collateral, except where noncompliance could not reasonably be expected to have a Material Adverse Effect.

9.1.13. Compliance with Laws. Each Borrower and Subsidiary has duly complied, and its Properties and business operations are in compliance, in all material respects with all Applicable Law, except where noncompliance could not reasonably be expected to have a Material Adverse Effect. There have been no citations, notices or orders of material noncompliance issued to any Borrower or Subsidiary under any Applicable Law. No Inventory has been produced in violation of the FLSA.

9.1.14. Compliance with Environmental Laws. Except as disclosed on **Schedule 9.1.14**, no Borrower's or Subsidiary's past or present operations, Real Estate or other Properties are subject to any federal, state or local investigation to determine whether any remedial action is needed to address any environmental pollution, hazardous material or environmental clean-up. No Borrower or Subsidiary has received any Environmental Notice. No Borrower or Subsidiary has any contingent liability with respect to any Environmental Release, environmental pollution or hazardous material on any Real Estate now or previously owned, leased or operated by it. The representations and warranties contained in the Environmental Agreement are true and correct on the Closing Date.

9.1.15. Burdensome Contracts. No Borrower or Subsidiary is a party or subject to any contract, agreement or charter restriction that could reasonably be expected to have a Material Adverse Effect. No Borrower or Subsidiary is party or subject to any Restrictive Agreement, except as shown on **Schedule 9.1.15**. No such Restrictive Agreement prohibits the execution, delivery or performance of any Loan Document by an Obligor.

9.1.16. Litigation. Except as shown on **Schedule 9.1.16**, there are no proceedings or investigations pending or, to any Borrower's knowledge, threatened against any Borrower or Subsidiary, or any of their businesses, operations, Properties, prospects or conditions, that (a) relate to any Loan Documents or transactions contemplated thereby; or (b) could reasonably be expected to have a Material Adverse Effect if determined adversely to any Borrower or Subsidiary. Except as shown on such Schedule, no Obligor has a Commercial Tort Claim (other than, as long as no Default or Event of Default exists, a Commercial Tort Claim for less than \$100,000). No Borrower or Subsidiary is in default with respect to any order, injunction or judgment of any Governmental Authority.

9.1.17. No Defaults. No event or circumstance has occurred or exists that constitutes a Default or Event of Default. No Borrower or Subsidiary is in default, and no event or circumstance has occurred or exists that with the passage of time or giving of notice would constitute a default, under any Material Contract or in the payment of any Borrowed Money or allow termination of any Material Contract.

9.1.18. ERISA. Except as disclosed on **Schedule 9.1.18**:

(a) Each Plan is in compliance in all material respects with the applicable provisions of ERISA, the Code, and other federal and state laws. Each Plan that is intended to qualify under Section 401(a) of the Code has received a favorable determination letter from the IRS or an application for such a letter is currently being processed by the IRS with respect thereto and, to the knowledge of Borrowers, nothing has occurred which would prevent, or cause the loss of, such qualification. Each Obligor and ERISA Affiliate has met all applicable requirements under the Code, ERISA and the Pension Protection Act of 2006, and no application for a waiver of the minimum funding standards or an extension of any amortization period has been made with respect to any Plan.

(b) There are no pending or, to the knowledge of Borrowers, threatened claims, actions or lawsuits, or action by any Governmental Authority, with respect to any Plan that could reasonably be expected to have a Material Adverse Effect. There has been no prohibited transaction or violation of the fiduciary responsibility rules with respect to any Plan that has resulted in or could reasonably be expected to have a Material Adverse Effect.

(c) (i) No ERISA Event has occurred or is reasonably expected to occur; (ii) no Pension Plan has any Unfunded Pension Liability; (iii) no Obligor or ERISA Affiliate has incurred, or reasonably expects to incur, any liability under Title IV of ERISA with respect to any Pension Plan (other than premiums due and not delinquent under Section 4007 of ERISA); (iv) no Obligor or ERISA Affiliate has incurred, or reasonably expects to incur, any liability (and no event has occurred which, with the giving of notice under Section 4219 of ERISA, would result in such liability) under Section 4201 or 4243 of ERISA with respect to a Multiemployer Plan; (v) no Obligor or ERISA Affiliate has engaged in a transaction that could be subject to Section 4069 or 4212(c) of ERISA; and (vi) as of the most recent valuation date for any Pension Plan or Multiemployer Plan, the funding target attainment percentage (as defined in Section 430(d)(2) of the Code) is at least 60%, and no Obligor or ERISA Affiliate knows of any fact or circumstance that could reasonably be expected to cause the funding target attainment percentage for any such plan to drop below 60% as of such date.

(d) With respect to any Foreign Plan, (i) all employer and employee contributions required by law or by the terms of the Foreign Plan have been made, or, if applicable, accrued, in accordance with normal accounting practices; (ii) the fair market value of the assets of each funded Foreign Plan, the liability of each insurer for any Foreign Plan funded through insurance, or the book reserve established for any Foreign Plan, together with any accrued contributions, is sufficient to procure or provide for the accrued benefit obligations with respect to all current and former participants in such Foreign Plan according to the actuarial assumptions and valuations most recently used to account for such obligations in accordance with applicable generally accepted accounting principles; and (iii) it has been registered as required and has been maintained in good standing with applicable regulatory authorities.

9.1.19. Trade Relations. There exists no actual or threatened termination, limitation or modification of any business relationship between any Borrower or Subsidiary and any customer or supplier, or any group of customers or suppliers, who individually or in the aggregate are material to the business of such Borrower or Subsidiary. There exists no condition or circumstance that could reasonably be expected to impair the ability of any Borrower or Subsidiary to conduct its business at any time hereafter in substantially the same manner as conducted on the Closing Date.

9.1.20. Labor Relations. No Borrower or Subsidiary is party to or bound by any collective bargaining agreement. Except as set forth on **Schedule 9.1.20**, no Borrower or Subsidiary is party to any management agreement or consulting agreement. There are no material grievances, disputes or controversies with any union or other organization of any Borrower's or Subsidiary's employees, or, to any Borrower's knowledge, any asserted or threatened strikes, work stoppages or demands for collective bargaining.

9.1.21. Payable Practices. No Borrower or Subsidiary has made any material change in its historical accounts payable practices from those in effect on the Closing Date.

9.1.22. Not a Regulated Entity. No Obligor is (a) an "investment company" or a "person directly or indirectly controlled by or acting on behalf of an investment company" within the meaning of the Investment Company Act of 1940; or (b) subject to regulation under the Federal Power Act, the Interstate Commerce Act, any public utilities code or any other Applicable Law regarding its authority to incur Debt.

9.1.23. Margin Stock. No Borrower or Subsidiary is engaged, principally or as one of its important activities, in the business of extending credit for the purpose of purchasing or carrying any Margin Stock. No Loan proceeds or Letters of Credit will be used by Borrowers to purchase or carry, or to reduce or refinance any Debt incurred to purchase or carry, any Margin Stock or for any related purpose governed by Regulations T, U or X of the Board of Governors.

9.1.24. OFAC. No Borrower, Subsidiary or, to the knowledge of any Borrower or Subsidiary, any director, officer, employee, agent, affiliate or representative thereof, is an individual or entity currently the subject of any Sanctions. No Borrower or Subsidiary is located, organized or resident in a Designated Jurisdiction.

9.2. Complete Disclosure. No Loan Document contains any untrue statement of a material fact, nor fails to disclose any material fact necessary to make the statements contained therein not materially misleading in light of the circumstances in which such statements were made. There is no fact or circumstance that any Obligor has failed to disclose to Lender in writing that could reasonably be expected to have a Material Adverse Effect.

SECTION 10. COVENANTS AND CONTINUING AGREEMENTS

10.1. Affirmative Covenants. Until Full Payment of the Obligations, each Borrower shall, and shall cause each Subsidiary to:

10.1.1. Inspections; Appraisals.

(a) Permit Lender from time to time, subject (except when a Default or Event of Default exists) to reasonable notice and normal business hours, to visit and inspect the Properties of any Borrower or Subsidiary, inspect, audit and make extracts from any Borrower's or Subsidiary's books and records, and discuss with its officers, employees, agents, advisors and independent accountants such Borrower's or Subsidiary's business, financial condition, assets, prospects and results of operations. Lender shall not have any duty to any Borrower to make any inspection, nor to share any results of any inspection, appraisal or report with any Borrower. Borrowers acknowledge that all inspections, appraisals and reports are prepared by Lender for its purposes, and Borrowers shall not be entitled to rely upon them.

(b) Reimburse Lender for all its reasonable and documented charges, costs and expenses in connection with (i) examinations of any Obligor's books and records or any other financial or Collateral matters as Lender deems appropriate, up to two times per Loan Year; and (ii) appraisals of Inventory up to one time per Loan Year; provided, however, that if an examination or appraisal is initiated during a Default or Event of Default, all charges, costs and expenses therefor shall be reimbursed by Borrowers without regard to such limits. Subject to and without limiting the foregoing, Borrowers agree to pay Lender's then standard charges for examination activities, including the standard charges of Lender's internal examination and appraisal groups, as well as the charges of any third party used for such purposes.

10.1.2. Financial and Other Information. Keep adequate records and books of account with respect to its business activities, in which proper entries are made in accordance with GAAP reflecting all financial transactions; and furnish to Lender:

(a) (i) as soon as available, and in any event within 120 days after the Closing Date, (A) an opening balance sheet as of a date not later than July 17, 2015, on a consolidated basis for Holdings, which balance sheet shall be audited and certified (without qualification) by a firm of independent certified public accountants of recognized standing selected by Borrowers and reasonably acceptable to Lender, and (B) an opening balance sheet as of a date not later than July 17, 2015, unaudited and on a consolidating basis for each of the other Borrowers and Subsidiaries, (ii) as soon as available, and in any event within 120 days after the close of Fiscal Year 2015, (A) a balance sheet as of the end of such Fiscal Year and the related statements of income, cash flow and shareholders' equity for the period from the Closing Date through the end of such Fiscal Year, on a consolidated basis for Holdings, which consolidated statements shall be audited and certified (without qualification) by a firm of independent certified public accountants of recognized standing selected by Borrowers and reasonably acceptable to Lender, and shall set forth in comparative form corresponding figures for the preceding Fiscal Year and other information reasonably acceptable to Lender, and (B) a balance sheet as of the end of such Fiscal Year and the related statements of income, cash flow and shareholders' equity for the period from the Closing Date through the end of such Fiscal Year, unaudited and on a consolidating basis for the other Borrowers and Subsidiaries, and (iii) as soon as available, and in any event within 120 days after the close of each Fiscal Year thereafter, (A) a balance sheet as of the end of such Fiscal Year and the related statements of income, cash flow and shareholders' equity for such Fiscal Year, on a consolidated basis for Holdings, which consolidated statements shall be audited and certified (without qualification) by a firm of independent certified public accountants of recognized standing selected by Borrowers and reasonably acceptable to Lender, and shall set forth in comparative form corresponding figures for the preceding Fiscal Year and other information reasonably acceptable to Lender, and (B) a balance sheet as of the end of such Fiscal Year and the related statements of income, cash flow and shareholders' equity for such Fiscal Year, unaudited and on a consolidating basis for the other Borrowers and Subsidiaries;

(b) as soon as available, and in any event within 30 days after the end of each month, unaudited balance sheets as of the end of such month and the related statements of income and cash flow for such month and for the portion of the Fiscal Year then elapsed, on consolidated and consolidating bases for Borrowers and Subsidiaries, setting forth in comparative form corresponding figures for the preceding Fiscal Year and certified by the chief financial officer or Treasurer of Borrower Agent as prepared in accordance with GAAP and fairly presenting in all material respects the financial position and results of operations for such month and period, subject to normal year-end adjustments and the absence of footnotes;

(c) concurrently with delivery of financial statements under clauses (a) and (b) above, or more frequently if requested by Lender while a Default or Event of Default exists, a Compliance Certificate executed by the chief financial officer or Treasurer of Borrower Agent;

(d) concurrently with delivery of financial statements under clause (a) above, copies of all management letters and other material reports submitted to Borrowers by their accountants in connection with such financial statements;

(e) no later than 60 days after the end of each Fiscal Year, projections of Borrowers' consolidated balance sheets, results of operations, cash flow and Availability for the next Fiscal Year, month by month;

(f) at Lender's request, a listing of each Borrower's trade payables, specifying the trade creditor and balance due, and a detailed trade payable aging, all in form reasonably satisfactory to Lender;

(g) promptly after the sending or filing thereof, copies of any proxy statements, financial statements or reports that any Borrower has made generally available to its shareholders; copies of any regular, periodic and special reports or registration statements or prospectuses that any Borrower files with the Securities and Exchange Commission or any other Governmental Authority, or any securities exchange; and copies of any press releases or other statements made available by a Borrower to the public concerning material changes to or developments in the business of such Borrower;

(h) promptly after the sending or filing thereof, copies of any annual report to be filed in connection with each Plan or Foreign Plan;

(i) such other reports and information (financial or otherwise) as Lender may reasonably request from time to time in connection with any Collateral or any Borrower's, Subsidiary's or other Obligor's financial condition or business;

(j) as soon as available, and in any event within 120 days after the close of each Fiscal Year, financial statements for each Guarantor, in form and substance satisfactory to Lender;

(k) upon receipt or delivery thereof by or to any Obligor or Subsidiary, any notice of "Default" or "Event of Default" (under and as defined in the Mezzanine Debt Documents) and, without duplication of any report required to be provided hereunder, each material report required to be provided pursuant to the Mezzanine Loan Agreement and, upon execution thereof, any waiver, amendment or other modification to the Mezzanine Debt Documents;

(l) upon receipt or delivery thereof by or to any Borrower, any notice of "Default" or "Event of Default" (under and as defined in the Factoring Agreements) and, without duplication of any report required to be provided hereunder, each material report required to be provided pursuant to the Factoring Agreements and, upon execution thereof, any waiver, amendment or other modification to the Factoring Agreements; and

(m) at Lender's request at any time after any Borrower files or consents to the filing of a consolidated income tax return with any Person other than Borrowers and Subsidiaries under the limited circumstances set forth in **Section 10.2.12**, provide Lender with true, correct and complete copies of all filed consolidated income tax returns for the Person with which such Borrower files or consents to the filing of such consolidated income tax returns and evidence that such Person has timely and fully paid all Taxes owing to Governmental Authorities under such returns.

10.1.3. Notices. Notify Lender in writing, promptly after a Borrower's obtaining knowledge thereof, of any of the following that affects an Obligor: (a) the threat or commencement of any proceeding or investigation, whether or not covered by insurance, if an adverse determination could reasonably be expected to have a Material Adverse Effect; (b) any pending or threatened labor dispute, strike or walkout, or the expiration of any material labor contract; (c) any default under or termination of a Material Contract; (d) the existence of any Default or Event of Default; (e) any judgment in an amount exceeding \$250,000 not covered by insurance; (f) the assertion of any Intellectual Property Claim, if an adverse resolution could reasonably be expected to have a Material Adverse Effect; (g) any violation or asserted violation of any Applicable Law (including ERISA, OSHA, FLSA, or any Environmental Laws), if an adverse resolution could reasonably be expected to have a Material Adverse Effect; (h) any Environmental Release by an Obligor or on any Property owned, leased or occupied by an Obligor; or receipt of any Environmental Notice; (i) the occurrence of any ERISA Event; (j) the discharge of or any withdrawal or resignation by Borrowers' independent accountants; (k) any opening of a new office or place of business, at least 30 days prior to such opening; (l) without duplication of any notice required to be provided hereunder, each material notice required to be provided pursuant to the Mezzanine Loan Agreement; or (m) without duplication of any notice required to be provided hereunder, each material notice required to be provided pursuant to any Factoring Agreement.

10.1.4. Landlord and Storage Agreements. Upon reasonable request, provide Lender with copies of all existing agreements, and promptly after execution thereof provide Lender with copies of all future agreements, between an Obligor and any landlord, warehouseman, processor, shipper, bailee or other Person that owns any premises at which any Collateral may be kept or that otherwise may possess or handle any Collateral.

10.1.5. Compliance with Laws. Comply with all Applicable Laws, including ERISA, Environmental Laws, FLSA, OSHA, Anti-Terrorism Laws, and laws regarding collection and payment of Taxes, and maintain all Governmental Approvals necessary to the ownership of its Properties or conduct of its business, unless failure to comply (other than failure to comply with Anti-Terrorism Laws) or maintain could not reasonably be expected to have a Material Adverse Effect. Without limiting the generality of the foregoing, if any material Environmental Release occurs at or on any Properties of any Borrower or Subsidiary, it shall act promptly and diligently to investigate and report to Lender and all appropriate Governmental Authorities the extent of, and to make appropriate remedial action to eliminate, such Environmental Release, whether or not directed to do so by any Governmental Authority.

10.1.6. Taxes. Pay and discharge all Taxes prior to the date on which they become delinquent or penalties attach, unless such Taxes are being Properly Contested.

10.1.7. Insurance. In addition to the insurance required hereunder with respect to Collateral, maintain insurance with insurers (with a Best Rating of at least A, unless otherwise approved by Lender in its discretion) satisfactory to Lender, (a) with respect to the Properties and business of Borrowers and Subsidiaries of such type (including product liability, workers' compensation, larceny, embezzlement, or other criminal misappropriation insurance), in such amounts, and with such coverages and deductibles as are customary for companies similarly situated; and (b) business interruption insurance in an amount not less than \$10,000,000, with deductibles and subject to an Insurance Assignment satisfactory to Lender.

10.1.8. Licenses. Keep each material License affecting any Collateral (including the manufacture, distribution or disposition of Inventory) or any other material Property of Borrowers and Subsidiaries in full force and effect; promptly notify Lender of any proposed modification to any such License, or entry into any new material License, in each case at least 10 days prior to its effective date; pay all Royalties when due; and notify Lender of any default or breach asserted by any Person to have occurred under any such License.

10.1.9. Future Subsidiaries. Promptly notify Lender upon any Person becoming a Subsidiary and, if such Person is not a Foreign Subsidiary, cause it to guaranty the Obligations (or, if requested by Borrowers and agreed to by Lender in its discretion, become a Borrower hereunder) in a manner reasonably satisfactory to Lender, and to execute and deliver such documents, instruments and agreements and to take such other actions as Lender shall reasonably require to evidence and perfect a Lien in favor of Lender on all assets of such Person (other than Excluded Assets), including delivery of such legal opinions, in form and substance reasonably satisfactory to Lender, as it shall deem appropriate.

10.1.10. Depository Bank. Maintain Lender as its principal depository bank, including for the maintenance of all operating, collection, disbursement and other deposit accounts and for all Cash Management Services.

10.1.11. Post-Closing Obligations. Use commercially reasonable efforts to address and ameliorate, to Lender's reasonable satisfaction, matters of concern for Lender with respect to that portion of the Collateral consisting of Real Estate.

10.2. Negative Covenants. Until Full Payment of the Obligations, each Borrower shall not, and shall cause each Subsidiary not to:

10.2.1. Permitted Debt. Create, incur, guarantee or suffer to exist any Debt, except:

- (a) the Obligations;
- (b) the Mezzanine Debt subject to the terms of the Debt and Lien Subordination Agreement as in effect on the date hereof;
- (c) Subordinated Debt;
- (d) Permitted Purchase Money Debt;
- (e) Borrowed Money (other than the Obligations, Subordinated Debt and Permitted Purchase Money Debt), but only to the extent outstanding on the Closing Date and not satisfied with proceeds of the initial Loans;
- (f) Bank Product Debt incurred in the Ordinary Course of Business;
- (g) Debt that is in existence when a Person becomes a Subsidiary or that is secured by an asset when acquired by a Borrower or Subsidiary, as long as such Debt was not incurred in contemplation of such Person becoming a Subsidiary or such acquisition, and does not exceed \$2,000,000 in the aggregate at any time
- (h) Permitted Contingent Obligations;
- (i) Refinancing Debt as long as each Refinancing Condition is satisfied;
- (j) Debt incurred pursuant to any intercompany loan permitted under **Section 10.2.7**;
- (k) guaranties by any Borrower of Debt or other obligations or another Borrower or Subsidiary with respect, in each case, to Debt otherwise permitted to be incurred under this **Section 10.2.1**; and
- (l) Debt that is not included in any of the preceding clauses of this Section, is not secured by a Lien and does not exceed \$2,500,000 in the aggregate at any time.

10.2.2. Permitted Liens. Create or suffer to exist any Lien upon any of its Property, except the following (collectively, "Permitted Liens"):

- (a) Liens in favor of Lender;
- (b) Liens in favor of the Mezzanine Lender securing the Mezzanine Debt permitted hereunder so long as the Debt and Lien Subordination Agreement remains in full force and effect with respect thereto;
- (c) Purchase Money Liens securing Permitted Purchase Money Debt;
- (d) Liens for Taxes not yet due or being Properly Contested;
- (e) statutory Liens (other than Liens for Taxes or imposed under ERISA) arising in the Ordinary Course of Business, but only if (i) payment of the obligations secured thereby is not yet due or is being Properly Contested, and (ii) such Liens do not materially impair the value or use of the Property or materially impair operation of the business of any Borrower or Subsidiary;
- (f) Liens incurred or deposits made in the Ordinary Course of Business to secure the performance of government tenders, bids, contracts, statutory obligations and other similar obligations, as long as such Liens are at all times junior to Lender's Liens and are required or provided by law;
- (g) Liens arising in the Ordinary Course of Business that are subject to Lien Waivers;
- (h) Liens arising by virtue of a judgment or judicial order against any Borrower or Subsidiary, or any Property of a Borrower or Subsidiary, as long as such Liens are (i) in existence for less than 20 consecutive days or being Properly Contested, and (ii) at all times junior to Lender's Liens;
- (i) easements, rights-of-way, restrictions, covenants or other agreements of record, and other similar charges or encumbrances on Real Estate, that do not secure any monetary obligation and do not interfere with the Ordinary Course of Business;
- (j) normal and customary rights of setoff upon deposits in favor of depository institutions, and Liens of a collecting bank on Payment Items in the course of collection;
- (k) existing Liens shown on **Schedule 10.2.2**;
- (l) Liens on the factored Accounts created for the purpose of evidencing the transfer and sale of Accounts sold to the Factors pursuant to the terms of the Factoring Agreements, provided that a Factor Intercreditor Agreement has been received by Lender and remains in effect with respect to each such Factoring Agreement;
- (m) any interest or title of a lessor or sublessor under any lease permitted hereunder;
- (n) any zoning or similar law or right reserved to or vested in any Governmental Authority to control or regulate the use of any real Property not materially detracting from the value of such real Property; and
- (o) Liens incurred in the Ordinary Course of Business on deposits made in connection with workers' compensation, unemployment insurance and other types of social security that are junior to Lender's Liens.

10.2.3. Reserved.

10.2.4. Distributions; Upstream Payments. (a) Declare or make any Distributions, except: (i) Upstream Payments, (ii) Permitted Tax Distributions, and (iii) Permitted Non-Tax Distributions.

(b) Create or suffer to exist any encumbrance or restriction on the ability of a Subsidiary to make any Upstream Payment, except for restrictions under the Loan Documents, under Applicable Law or in effect on the Closing Date as shown on **Schedule 9.1.15**.

10.2.5. Restricted Investments. Make any Restricted Investment.

10.2.6. Disposition of Assets. Make any Asset Disposition, except a Permitted Asset Disposition, a disposition of Equipment under **Section 8.4.2**, or a transfer of Property by a Subsidiary or Obligor to a Borrower.

10.2.7. Loans. Make any loans or other advances of money to any Person, except (a) advances to an officer or employee for salary, travel expenses, commissions and similar items in the Ordinary Course of Business; (b) prepaid expenses and extensions of trade credit made in the Ordinary Course of Business; (c) deposits with financial institutions permitted hereunder; and (d) as long as no Default or Event of Default exists, intercompany loans by a Borrower to another Borrower.

10.2.8. Restrictions on Payment of Certain Debt. Make any payments (whether voluntary or mandatory, or a prepayment, redemption, retirement, defeasance or acquisition) with respect to any:

(a) Subordinated Debt (other than Subordinated Debt of the type described in the following clause (b)), except regularly scheduled payments of principal, interest and fees, but only to the extent permitted under any subordination agreement relating to such Debt (and a Senior Officer of Borrower Agent shall certify to Lender, not less than five Business Days prior to the date of payment, that all conditions under such agreement have been satisfied); or

(b) The Mezzanine Debt, except to the extent expressly permitted under the terms of the Debt and Lien Subordination Agreement; or

(c) Borrowed Money (other than the Obligations, the Mezzanine Debt and Subordinated Debt) prior to its due date under the agreements evidencing such Debt as in effect on the Closing Date (or as amended thereafter with the consent of Lender).

10.2.9. Fundamental Changes. (a) Without giving 30 days prior written notice to Lender, change its name or conduct business under any fictitious name; change its tax, charter or other organizational identification number; change its form or state of organization; (b) liquidate, wind up its affairs or dissolve itself; or merge, combine or consolidate with any Person, whether in a single transaction or in a series of related transactions, except for (i) mergers or consolidations of a wholly-owned Subsidiary with another wholly-owned Subsidiary or into a Borrower; or (ii) Permitted Acquisitions.

10.2.10. Subsidiaries. Form or acquire any Subsidiary after the Closing Date, except in accordance with **Sections 10.1.9, 10.2.5 or 10.2.9**; or permit any existing Subsidiary to issue any additional Equity Interests except directors' qualifying shares.

10.2.11. Organic Documents. Amend, modify or otherwise change any of its Organic Documents, except in connection with a transaction permitted under **Section 10.2.9**.

10.2.12. Tax Consolidation. File or consent to the filing of any consolidated income tax return with any Person other than Borrowers and Subsidiaries or any corporation that owns all of the Equity Interests of any Obligor.

10.2.13. Accounting Changes. Make any material change in accounting treatment or reporting practices, except as required by GAAP and in accordance with **Section 1.2**; or change its Fiscal Year.

10.2.14. Restrictive Agreements. Become a party to any Restrictive Agreement, except a Restrictive Agreement (a) in effect on the Closing Date; (b) relating to secured Debt permitted hereunder, as long as the restrictions apply only to collateral for such Debt; or (c) constituting customary restrictions on assignment in leases and other contracts.

10.2.15. Hedging Agreements. Enter into any Hedging Agreement, except to hedge risks arising in the Ordinary Course of Business and not for speculative purposes.

10.2.16. Conduct of Business. Engage in any business, other than its business as conducted on the Closing Date (or similar related business) and any activities incidental thereto.

10.2.17. Affiliate Transactions. Enter into or be party to any transaction with an Affiliate, except (a) transactions contemplated by the Loan Documents or the Marquis SPA Documents; (b) payment of reasonable compensation to officers and employees for services actually rendered, and loans and advances permitted by **Section 10.2.7**; (c) payment of customary directors' fees and indemnities; (d) transactions solely among Borrowers; (e) transactions with Affiliates consummated prior to the Closing Date, as shown on **Schedule 10.2.17**; and (f) transactions with Affiliates in the Ordinary Course of Business, upon fair and reasonable terms fully disclosed to Lender and no less favorable than would be obtained in a comparable arm's-length transaction with a non-Affiliate.

10.2.18. Plans. Become party to any Multiemployer Plan or Foreign Plan, other than any in existence on the Closing Date.

10.2.19. Amendments to Mezzanine Debt, Factoring Agreements and Other Subordinated Debt.

(a) Amend, supplement or otherwise modify any document, instrument or agreement relating to the Mezzanine Debt, except to the extent expressly permitted under the terms of the Debt and Lien Subordination Agreement.

(b) Amend, supplement or otherwise modify any Factoring Agreement, except to the extent expressly permitted under the terms of the applicable Factor Intercreditor Agreement.

(c) Amend, supplement or otherwise modify any document, instrument or agreement relating to any Subordinated Debt (other than Subordinated Debt of the type described in the foregoing clause (a)), if such modification (i) increases the principal balance of such Debt, or increases any required payment of principal or interest; (ii) accelerates the date on which any installment of principal or any interest is due, or adds any additional redemption, put or prepayment provisions; (iii) shortens the final maturity date or otherwise accelerates amortization; (iv) increases the interest rate; (v) increases or adds any fees or charges; (vi) modifies any covenant in a manner or adds any representation, covenant or default that is more onerous or restrictive in any material respect for any Borrower or Subsidiary, or that is otherwise materially adverse to any Borrower, any Subsidiary or Lender; or (vii) results in the Obligations not being fully benefited by the subordination provisions thereof.

10.3. Financial Covenants. As long as any Commitment or Obligations are outstanding, Borrowers shall:

10.3.1. Fixed Charge Coverage Ratio. Maintain a Fixed Charge Coverage Ratio of at least 1.05 to 1.0, tested as of the last day of each month for the twelve consecutive months ending on such day.

SECTION 11. EVENTS OF DEFAULT; REMEDIES ON DEFAULT

11.1. Events of Default. Each of the following shall be an "Event of Default" if it occurs for any reason whatsoever, whether voluntary or involuntary, by operation of law or otherwise:

- (a) Any Borrower fails to pay its Obligations when due (whether at stated maturity, on demand, upon acceleration or otherwise);
- (b) Any representation, warranty or other written statement of an Obligor made in connection with any Loan Documents or transactions contemplated thereby is incorrect or misleading in any material respect when given;
- (c) A Borrower breaches or fail to perform any covenant contained in **Section 7.2, 7.3, 7.4, 7.6, 8.1, 8.2.4, 8.2.5, 8.6.2, 10.1.1, 10.1.2, 10.2** or **10.3**;
- (d) An Obligor breaches or fails to perform any other covenant contained in any Loan Documents, and such breach or failure is not cured within 15 days after a Senior Officer of such Obligor has knowledge thereof or receives notice thereof from Lender, whichever is sooner; provided, however, that such notice and opportunity to cure shall not apply if the breach or failure to perform is not capable of being cured within such period or is a willful breach by an Obligor;
- (e) A Guarantor repudiates, revokes or attempts to revoke its Guaranty; an Obligor or third party denies or contests the validity or enforceability of any Loan Documents or Obligations, or the perfection or priority of any Lien granted to Lender; or any Loan Document ceases to be in full force or effect for any reason (other than a waiver or release by Lender);
- (f) Any breach or default of an Obligor occurs (after giving effect to any applicable grace period thereunder) under (i) any Hedging Agreement; (ii) any Mezzanine Debt Document; (iii) any Factoring Agreement; or (iv) any instrument or agreement to which it is a party or by which it or any of its Properties is bound, relating to any Debt (other than the Obligations) in excess of \$1,000,000, if the maturity of or any payment with respect to such Debt may be accelerated or demanded due to such breach;
- (g) Any judgment or order for the payment of money is entered against an Obligor in an amount that exceeds, individually or cumulatively with all unsatisfied judgments or orders against all Obligors, \$750,000 (net of insurance coverage therefor that has not been denied by the insurer), unless a stay of enforcement of such judgment or order is in effect, by reason of a pending appeal or otherwise;
- (h) A loss, theft, damage or destruction occurs with respect to any Collateral if the amount not covered by insurance exceeds \$500,000;
- (i) An Obligor is enjoined, restrained or in any way prevented by any Governmental Authority from conducting any material part of its business; an Obligor suffers the loss, revocation or termination of any material license, permit, lease or agreement necessary to its business; there is a cessation of any material part of an Obligor's business for a material period of time; any material Collateral or Property of an Obligor is taken or impaired through condemnation; an Obligor agrees to or commences any liquidation, dissolution or winding up of its affairs except in connection with a merger or consolidation with another Obligor that is permitted under this Agreement; or an Obligor is not Solvent;
- (j) An Insolvency Proceeding is commenced by an Obligor; an Obligor makes an offer of settlement, extension or composition to its unsecured creditors generally; a trustee is appointed to take possession of any substantial Property of or to operate any of the business of an Obligor; or an Insolvency Proceeding is commenced against an Obligor and: the Obligor consents to institution of the proceeding, the petition commencing the proceeding is not timely contested by the Obligor, the petition is not dismissed within 30 days after filing, or an order for relief is entered in the proceeding;

(k) An ERISA Event occurs with respect to a Pension Plan or Multiemployer Plan that has resulted or could reasonably be expected to result in liability of an Obligor to a Pension Plan, Multiemployer Plan or PBGC, or that constitutes grounds for appointment of a trustee for or termination by the PBGC of any Pension Plan or Multiemployer Plan; an Obligor or ERISA Affiliate fails to pay when due any installment payment with respect to its withdrawal liability under Section 4201 of ERISA under a Multiemployer Plan; or any event similar to the foregoing occurs or exists with respect to a Foreign Plan;

(l) An Obligor or any of its Senior Officers is criminally indicted or convicted for (i) a felony committed in the conduct of the Obligor's business, or (ii) violating any state or federal law (including the Controlled Substances Act, Money Laundering Control Act of 1986 and Illegal Exportation of War Materials Act) that could lead to forfeiture of any material Property or any Collateral; or

(m) A Change of Control occurs; or any event occurs or condition exists that has a Material Adverse Effect.

11.2. Remedies upon Default. If an Event of Default described in **Section 11.1(j)** occurs with respect to any Borrower, then to the extent permitted by Applicable Law, all Obligations shall become automatically due and payable and all Commitments shall terminate, without any action by Lender or notice of any kind. In addition, or if any other Event of Default exists, Lender may in its discretion do any one or more of the following from time to time:

(a) declare any Obligations immediately due and payable, whereupon they shall be due and payable without diligence, presentment, demand, protest or notice of any kind, all of which are hereby waived by Borrowers to the fullest extent permitted by law;

(b) terminate, reduce or condition any Commitment, or make any adjustment to the Borrowing Base;

(c) require Obligors to Cash Collateralize their LC Obligations, Bank Product Debt and other Obligations that are contingent or not yet due and payable, and if Obligors fail to deposit such Cash Collateral, Lender may advance the required Cash Collateral as Revolver Loans; and

(d) exercise any other rights or remedies afforded under any agreement, by law, at equity or otherwise, including the rights and remedies of a secured party under the UCC. Such rights and remedies include the rights to (i) take possession of any Collateral; (ii) require Borrowers to assemble Collateral, at Borrowers' expense, and make it available to Lender at a place designated by Lender; (iii) enter any premises where Collateral is located and store Collateral on such premises until sold (and if the premises are owned or leased by a Borrower, Borrowers agree not to charge for such storage); and (iv) sell or otherwise dispose of any Collateral in its then condition, or after any further manufacturing or processing thereof, at public or private sale, with such notice as may be required by Applicable Law, in lots or in bulk, at such locations, all as Lender, in its discretion, deems advisable. Each Borrower agrees that 10 days notice of any proposed sale or other disposition of Collateral by Lender shall be reasonable, and that any sale conducted on the internet or to a licensor of Intellectual Property shall be commercially reasonable. Lender may conduct sales on any Obligor's premises, without charge, and any sales may be adjourned from time to time in accordance with Applicable Law. Lender shall have the right to sell, lease or otherwise dispose of any Collateral for cash, credit or any combination thereof, and Lender may purchase any Collateral at public or, if permitted by law, private sale and, in lieu of actual payment of the purchase price, may set off the amount of such price against the Obligations.

11.3. License. To the extent permitted under the terms of any underlying license or sublicense agreements (if applicable), Lender is hereby granted an irrevocable, non-exclusive license or other right to use, license or sub-license during the existence of an Event of Default (without payment of royalty or other compensation to any Person) any or all Intellectual Property of Borrowers, computer hardware and software, trade secrets, brochures, customer lists, promotional and advertising materials, labels, packaging materials and other Property, in advertising for sale, marketing, selling, collecting, completing manufacture of, or otherwise exercising any rights or remedies with respect to, any Collateral. Each Borrower's rights and interests under Intellectual Property shall inure to Lender's benefit.

11.4. Setoff. At any time during an Event of Default, Lender and its Affiliates are authorized, to the fullest extent permitted by Applicable Law, to set off and apply any and all deposits (general or special, time or demand, provisional or final, in whatever currency) at any time held and other obligations (in whatever currency) at any time owing by Lender or such Affiliate to or for the credit or the account of an Obligor against its Obligations, whether or not Lender or such Affiliate shall have made any demand under this Agreement or any other Loan Document and although such Obligations may be contingent or unmatured or are owed to a branch or office of Lender or such Affiliate different from the branch or office holding such deposit or obligated on such indebtedness. The rights of Lender and each such Affiliate under this Section are in addition to other rights and remedies (including other rights of setoff) that such Person may have.

11.5. Remedies Cumulative; No Waiver.

11.5.1. Cumulative Rights. All agreements, warranties, guaranties, indemnities and other undertakings of Obligors under the Loan Documents are cumulative and not in derogation of each other. The rights and remedies of Lender under the Loan Documents are cumulative, may be exercised at any time and from time to time, concurrently or in any order, and are not exclusive of any other rights or remedies available by agreement, by law, at equity or otherwise. All such rights and remedies shall continue in full force and effect until Full Payment of all Obligations.

11.5.2. Waivers. No waiver or course of dealing shall be established by (a) the failure or delay of Lender to require strict performance by any Obligor under any Loan Document, or to exercise any rights or remedies with respect to Collateral or otherwise; (b) the making of any Loan or issuance of any Letter of Credit during a Default, Event of Default or other failure to satisfy any conditions precedent; or (c) acceptance by Lender of any payment or performance by an Obligor under any Loan Documents in a manner other than that specified therein. Any failure to satisfy a financial covenant on a measurement date shall not be cured or remedied by satisfaction of such covenant on a subsequent date.

SECTION 12. MISCELLANEOUS

12.1. Amendments and Waivers.

12.1.1. Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of Borrowers, Lender, and their respective successors and assigns, except that no Borrower shall have the right to assign its rights or delegate its obligations under any Loan Documents.

12.1.2. Amendments and Other Modifications. No modification of any Loan Document, including any extension or amendment of a Loan Document or any waiver of a Default or Event of Default, shall be effective without the prior written agreement of Lender and each Obligor party to such Loan Document; provided, however, that only the consent of the parties to a Bank Product agreement shall be required for any modification of such agreement. Any waiver or consent granted by Lender shall be effective only if in writing, and only for the matter specified.

12.2. Indemnity. EACH BORROWER SHALL INDEMNIFY AND HOLD HARMLESS THE INDEMNITEES AGAINST ANY CLAIMS THAT MAY BE INCURRED BY OR ASSERTED AGAINST ANY INDEMNITEE, INCLUDING CLAIMS ASSERTED BY ANY OBLIGOR OR OTHER PERSON OR ARISING FROM THE NEGLIGENCE OF AN INDEMNITEE. In no event shall any party to a Loan Document have any obligation thereunder to indemnify or hold harmless an Indemnitee with respect to a Claim that is determined in a final, non-appealable judgment by a court of competent jurisdiction to result from the gross negligence or willful misconduct of such Indemnitee.

12.3. Notices and Communications.

12.3.1. Notice Address. Subject to **Section 4.1.2**, all notices and other communications by or to a party hereto shall be in writing and shall be given to any Borrower, at Borrower Agent's address shown on the signature pages hereof, and to any other Person at its address shown on the signature pages hereof, or at such other address as a party may hereafter specify by notice in accordance with this **Section 12.3**. Each such notice or other communication shall be effective only (a) if given by facsimile transmission, when transmitted to the applicable facsimile number, if confirmation of receipt is received; (b) if given by mail, three Business Days after deposit in the U.S. mail, with first-class postage pre-paid, addressed to the applicable address; or (c) if given by personal delivery, when duly delivered to the notice address with receipt acknowledged. Notwithstanding the foregoing, no notice to Lender pursuant to **Section 2.1.3, 2.3, 3.1.2, 4.1.1 or 5.3.3** shall be effective until actually received by the individual to whose attention at Lender such notice is required to be sent. Any written notice or other communication that is not sent in conformity with the foregoing provisions shall nevertheless be effective on the date actually received by the noticed party. Any notice received by Borrower Agent shall be deemed received by all Borrowers.

12.3.2. Electronic Communications; Voice Mail. Electronic mail and internet websites may be used only for routine communications, such as delivery of financial statements, Borrowing Base Certificates and other information required by **Section 10.1.2**, administrative matters, distribution of Loan Documents, and matters permitted under **Section 4.1.2**. Lender make no assurances as to the privacy and security of electronic communications. Electronic and voice mail may not be used as effective notice under the Loan Documents.

12.3.3. Platform. Borrowing Base information, reports, financial statements and other materials shall be delivered by Borrowers pursuant to procedures approved by Lender, including electronic delivery (if possible) upon request by Lender to an electronic system maintained by it ("Platform"). Borrowers shall notify Lender of each posting of reports or other information on the Platform. All information shall be deemed received by Lender only upon its receipt of such notice. The Platform is provided "as is" and "as available." NO WARRANTY OF ANY KIND, EXPRESS, IMPLIED OR STATUTORY, INCLUDING ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT OF THIRD PARTY RIGHTS, OR FREEDOM FROM VIRUSES OR OTHER CODE DEFECTS, IS MADE BY LENDER WITH RESPECT TO THE PLATFORM. Lender does not warrant the adequacy or functioning of the Platform, and expressly disclaims liability for any issues involving the Platform. No Indemnitee shall have any liability to Borrowers or any other Person for losses, claims, damages, liabilities or expenses of any kind (whether in tort, contract or otherwise) relating to use by any Person of the Platform or delivery of any information over the internet.

12.3.4. Non-Conforming Communications. Lender may rely upon any communications purportedly given by or on behalf of any Borrower even if they were not made in a manner specified herein, were incomplete or were not confirmed, or if the terms thereof, as understood by the recipient, varied from a later confirmation. Each Borrower shall indemnify and hold harmless each Indemnitee from any liabilities, losses, costs and expenses arising from any electronic or telephonic communication purportedly given by or on behalf of a Borrower.

12.4. Performance of Borrowers' Obligations. Lender may, in its discretion at any time and from time to time, at Borrowers' expense, pay any amount or do any act required of a Borrower under any Loan Documents or otherwise lawfully requested by Lender to (a) enforce any Loan Documents or collect any Obligations; (b) protect, insure, maintain or realize upon any Collateral; or (c) defend or maintain the validity or priority of Lender's Liens in any Collateral, including any payment of a judgment, insurance premium, warehouse charge, finishing or processing charge, or landlord claim, or any discharge of a Lien. All payments, costs and expenses (including Extraordinary Expenses) of Lender under this Section shall be reimbursed by Borrowers, **on demand**, with interest from the date incurred until paid in full, at the Default Rate applicable to Base Rate Revolver Loans. Any payment made or action taken by Lender under this Section shall be without prejudice to any right to assert an Event of Default or to exercise any other rights or remedies under the Loan Documents.

12.5. Credit Inquiries. Lender may (but shall have no obligation) to respond to usual and customary credit inquiries from third parties concerning any Obligor or Subsidiary.

12.6. Severability. Wherever possible, each provision of the Loan Documents shall be interpreted in such manner as to be valid under Applicable Law. If any provision is found to be invalid under Applicable Law, it shall be ineffective only to the extent of such invalidity and the remaining provisions of the Loan Documents shall remain in full force and effect.

12.7. Cumulative Effect; Conflict of Terms. The provisions of the Loan Documents are cumulative. The parties acknowledge that the Loan Documents may use several limitations or measurements to regulate similar matters, and they agree that these are cumulative and that each must be performed as provided. Except as otherwise provided in another Loan Document (by specific reference to the applicable provision of this Agreement), if any provision contained herein is in direct conflict with any provision in another Loan Document, the provision herein shall govern and control.

12.8. Counterparts; Execution. Any Loan Document may be executed in counterparts, each of which shall constitute an original, but all of which when taken together shall constitute a single contract. This Agreement shall become effective when Lender has received counterparts bearing the signatures of all parties hereto. Delivery of a signature page of any Loan Document by telecopy or other electronic means shall be effective as delivery of a manually executed counterpart of such agreement. Any electronic signature, contract formation on an electronic platform and electronic record-keeping shall have the same legal validity and enforceability as a manually executed signature or use of a paper-based recordkeeping system to the fullest extent permitted by Applicable Law, including the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act, or any similar state law based on the Uniform Electronic Transactions Act.

12.9. Entire Agreement. Time is of the essence with respect to all Loan Documents and Obligations. The Loan Documents constitute the entire agreement, and supersede all prior understandings and agreements, among the parties relating to the subject matter thereof.

12.10. No Control; No Advisory or Fiduciary Responsibility. Nothing in any Loan Document and no action of Lender pursuant to any Loan Document shall be deemed to constitute control of any Obligor by Lender. In connection with all aspects of each transaction contemplated by any Loan Document, Borrowers acknowledge and agree that (a)(i) this credit facility and all related services by Lender or its Affiliates are arm's-length commercial transactions between Borrowers and such Person; (ii) Borrowers have consulted their own legal, accounting, regulatory and tax advisors to the extent they have deemed appropriate; and (iii) Borrowers are capable of evaluating, and understand and accept, the terms, risks and conditions of the transactions contemplated by the Loan Documents; (b) each of Lender and its Affiliates is and has been acting solely as a principal and, except as expressly agreed in writing by the relevant parties, has not been, is not, and will not be acting as an advisor, agent or fiduciary for Borrowers, their Affiliates or any other Person, and has no obligation with respect to the transactions contemplated by the Loan Documents except as expressly set forth therein; and (c) Lender and its Affiliates may be engaged in a broad range of transactions that involve interests that differ from those of Borrowers and their Affiliates, and have no obligation to disclose any of such interests to Borrowers or their Affiliates. To the fullest extent permitted by Applicable Law, each Borrower hereby waives and releases any claims that it may have against Lender and its Affiliates with respect to any breach of agency or fiduciary duty in connection with any transaction contemplated by a Loan Document.

12.11. Confidentiality. Lender agrees to maintain the confidentiality of all Information (as defined below), except that Information may be disclosed (a) to its Affiliates, and its and their partners, directors, officers, employees, agents, advisors and representatives (provided they are informed of the confidential nature of the Information and instructed to keep it confidential); (b) to the extent requested by any governmental, regulatory or self-regulatory authority purporting to have jurisdiction over it or its Affiliates (in which case Lender shall notify Borrower Agent to the extent Lender is lawfully permitted to do so); (c) to the extent required by Applicable Law or by any subpoena or other legal process (in which case Lender shall notify Borrower Agent to the extent Lender is lawfully permitted to do so); (d) to any other party hereto; (e) in connection with any action or proceeding relating to any Loan Documents or Obligations; (f) subject to an agreement containing provisions substantially the same as this Section, to any potential or actual transferee of any interest in a Loan Document or any actual or prospective party (or its advisors) to any Bank Product or to any swap, derivative or other transaction under which payments are to be made by reference to an Obligor or Obligor's obligations; (g) with the consent of Borrower Agent; or (h) to the extent such Information (i) becomes publicly available other than as a result of a breach of this Section or (ii) is available to Lender or its Affiliates on a nonconfidential basis from a source other than Borrowers. Notwithstanding the foregoing, subject to Borrower Agent's prior written consent, Lender may publish or disseminate general information concerning this credit facility, and may use Borrowers' logos, trademarks or product photographs in advertising materials. As used herein, "Information" means information received from an Obligor or Subsidiary relating to it or its business, other than any information that is available to Lender on a nonconfidential basis prior to disclosure by an Obligor or Subsidiary, provided, that in the case of information received from an Obligor or Subsidiary after the Closing Date, such information is identified as confidential when delivered. A Person required to maintain the confidentiality of Information pursuant to this Section shall be deemed to have complied if it exercises a degree of care similar to that accorded its own confidential information. Lender acknowledges that (i) Information may include material non-public information; (ii) it has developed compliance procedures regarding the use of such information; and (iii) it will handle the material non- public information in accordance with Applicable Law.

12.12. GOVERNING LAW. UNLESS EXPRESSLY PROVIDED IN ANY LOAN DOCUMENT, THIS AGREEMENT, THE OTHER LOAN DOCUMENTS AND ALL CLAIMS SHALL BE GOVERNED BY THE LAWS OF THE STATE OF GEORGIA, WITHOUT GIVING EFFECT TO ANY CONFLICT OF LAW PRINCIPLES EXCEPT FEDERAL LAWS RELATING TO NATIONAL BANKS.

12.13. Consent to Forum.

12.13.1. Forum. **EACH BORROWER HEREBY CONSENTS TO THE NON- EXCLUSIVE JURISDICTION OF ANY FEDERAL OR STATE COURT SITTING IN OR WITH JURISDICTION OVER THE NORTHERN DISTRICT OF GEORGIA OR COBB COUNTY, GEORGIA, IN ANY DISPUTE, ACTION, LITIGATION OR OTHER PROCEEDING RELATING IN ANY WAY TO ANY LOAN DOCUMENTS, AND AGREES THAT ANY DISPUTE, ACTION, LITIGATION OR OTHER PROCEEDING SHALL BE BROUGHT BY IT SOLELY IN ANY SUCH COURT. EACH BORROWER IRREVOCABLY AND UNCONDITIONALLY WAIVES ALL CLAIMS, OBJECTIONS AND DEFENSES THAT IT MAY HAVE REGARDING ANY SUCH COURT'S PERSONAL OR SUBJECT MATTER JURISDICTION, VENUE OR INCONVENIENT FORUM. EACH PARTY HERETO IRREVOCABLY AND UNCONDITIONALLY SUBMITS TO THE JURISDICTION OF SUCH COURTS AND CONSENTS TO SERVICE OF PROCESS IN THE MANNER PROVIDED FOR NOTICES IN SECTION 12.3.1.** A final judgment in any proceeding of any such court shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or any other manner provided by Applicable Law.

12.13.2. Other Jurisdictions. Nothing herein shall limit the right of Lender to bring proceedings against any Obligor in any other court, nor limit the right of any party to serve process in any other manner permitted by Applicable Law. Nothing in this Agreement shall be deemed to preclude enforcement by Lender of any judgment or order obtained in any forum or jurisdiction.

12.14. Waivers by Borrowers. To the fullest extent permitted by Applicable Law, each Borrower waives (a) the right to trial by jury (which Lender hereby also waives) in any proceeding or dispute of any kind relating in any way to any Loan Documents, Obligations or Collateral; (b) presentment, demand, protest, notice of presentment, default, non-payment, maturity, release, compromise, settlement, extension or renewal of any commercial paper, accounts, documents, instruments, chattel paper and guaranties at any time held by Lender on which a Borrower may in any way be liable, and hereby ratifies anything Lender may do in this regard; (c) notice prior to taking possession or control of any Collateral; (d) any bond or security that might be required by a court prior to allowing Lender to exercise any rights or remedies; (e) the benefit of all valuation, appraisal and exemption laws; (f) any claim against Lender, on any theory of liability, for special, indirect, consequential, exemplary or punitive damages (as opposed to direct or actual damages) in any way relating to any Enforcement Action, Obligations, Loan Documents or transactions relating thereto; and (g) notice of acceptance hereof. Each Borrower acknowledges that the foregoing waivers are a material inducement to Lender entering into this Agreement and that Lender is relying upon the foregoing in its dealings with Borrowers. Each Borrower has reviewed the foregoing waivers with its legal counsel and has knowingly and voluntarily waived its jury trial and other rights following consultation with legal counsel. In the event of litigation, this Agreement may be filed as a written consent to a trial by the court.

12.15. Patriot Act Notice. Lender hereby notifies Borrowers that pursuant to the Patriot Act, Lender is required to obtain, verify and record information that identifies each Borrower, including its legal name, address, tax ID number and other information that will allow Lender to identify it in accordance with the Patriot Act. Lender will also require information regarding each personal guarantor, if any, and may require information regarding Borrowers' management and owners, such as legal name, address, social security number and date of birth. Borrowers shall, promptly upon request, provide all documentation and other information as Lender may request from time to time in order to comply with any obligations under "know your customer," anti-money laundering or other requirements of Applicable Law.

12.16. NO ORAL AGREEMENT. THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS REPRESENT THE FINAL AGREEMENT BETWEEN THE PARTIES AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS OR SUBSEQUENT ORAL AGREEMENTS BETWEEN THE PARTIES. THERE ARE NO UNWRITTEN AGREEMENTS BETWEEN THE PARTIES.

[Remainder of page intentionally left blank; signatures begin on following page]

LOAN AND SECURITY AGREEMENT

Dated as of July 6, 2015

**MARQUIS AFFILIATED HOLDINGS LLC,
MARQUIS INDUSTRIES, INC.,
A-O INDUSTRIES, LLC,
ASTRO CARPET MILLS, LLC,
CONSTELLATION INDUSTRIES, LLC,
and
S F COMMERCIAL PROPERTIES, LLC,**

as Borrowers

ISAAC CAPITAL FUND I, LLC,

as Lender

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Exhibit A	Historical EBITDA / Fixed Charge Coverage Ratio Calculations
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PURSUANT TO THE DEBT AND LIEN SUBORDINATION AGREEMENT (AS DEFINED BELOW), THIS LOAN AND SECURITY AGREEMENT, THE SUBORDINATED PROMISSORY NOTE ISSUED PURSUANT TO THIS LOAN AND SECURITY AGREEMENT AND THE PAYMENT OF ALL AMOUNTS HEREUNDER AND THEREUNDER ARE EXPRESSLY SUBORDINATED TO THE PAYMENT OF THE SENIOR DEBT (AS DEFINED BELOW) ON THE TERMS AND CONDITIONS SET FORTH IN THE DEBT AND LIEN SUBORDINATION AGREEMENT.

LOAN AND SECURITY AGREEMENT

THIS LOAN AND SECURITY AGREEMENT is dated as of July 6, 2015, among **MARQUIS AFFILIATED HOLDINGS LLC**, a Delaware limited liability company ("Holdings"), **MARQUIS INDUSTRIES, INC.**, a Georgia corporation ("Marquis"), **A-O INDUSTRIES, LLC**, a Georgia limited liability company ("A-O"), **ASTRO CARPET MILLS, LLC**, a Georgia limited liability company ("Astro"), **CONSTELLATION INDUSTRIES, LLC**, a Georgia limited liability company ("Constellation"), and **S F COMMERCIAL PROPERTIES, LLC**, a Georgia limited liability company ("SF Commercial"; and together with Holdings, Marquis, A-O, Astro and Constellation, collectively, "Borrowers" and each individually, a "Borrower"), and **ISAAC CAPITAL FUND I, LLC**, a Georgia limited liability company ("Lender").

RECITALS:

On the date of this Agreement, Holdings acquired all of the capital stock of Marquis (the "Marquis Acquisition") pursuant to that certain Purchase Agreement, dated July 6, 2015, by and among Live Ventures Inc., a Nevada corporation ("Live Ventures"), Marquis, all of its stockholders, Timothy A. Bailey, a Georgia resident, ("Bailey"), Larry Heckman, a Georgia resident ("Heckman"), David Stokes, a Georgia resident ("Stokes"), and Mark Rowland, a Georgia resident ("Rowland", with Bailey, Heckman, Stokes, and Rowland, individually and interchangeably, a "Seller", and, in the aggregate, the "Sellers"), and Holdings (such agreement, as amended, restated, supplemented or otherwise modified from time to time, the "Marquis SPA" and, together with each other material agreement, instrument, certificates, schedule, exhibit, annex and rider executed in connection therewith or contemplated thereby, collectively, the "Marquis SPA Documents").

The Marquis Acquisition was funded solely with proceeds from (a) the Loan (as defined below), (b) a portion of the Senior Debt (as defined below) pursuant to the Senior Loan Agreement (as defined below), together with all of the documents, agreements, instruments, certificates, schedules, exhibits, annexes and riders executed in connection therewith or contemplated thereby, in each case as amended, restated, supplemented or otherwise modified from time to time in accordance with the terms of the Debt and Lien Subordination Agreement (as defined below) (collectively, the "Senior Debt Documents") and (c) an equity contribution from, among others, Live, Bailey, Heckman, Stokes, and Rowland, in an aggregate amount not less than \$6,000,000.00 (the "Equity Contribution" and, all of the documents, agreements, instruments, certificates, schedules, exhibits, annexes and riders executed in connection therewith or contemplated thereby, collectively, the "Equity Contribution Documents").

Borrowers have requested that Lender provide a credit facility to Borrowers to finance their mutual and collective business enterprise. Lender is willing to provide the credit facility on the terms and conditions set forth in this Agreement.

NOW, THEREFORE, for valuable consideration hereby acknowledged, the parties agree as follows:

SECTION 1. DEFINITIONS; RULES OF CONSTRUCTION

1.1. Definitions. As used herein, the following terms have the meanings set forth below:

Account: as defined in the UCC, including all rights to payment for goods sold or leased, or for services rendered.

Account Debtor: a Person obligated under an Account, Chattel Paper or General Intangible.

Acquisition: a transaction or series of transactions resulting in (a) acquisition of a business, division or substantially all assets of a Person; (b) record or beneficial ownership of 50% or more of the Equity Interests of a Person; or (c) merger, consolidation or combination of a Borrower or Subsidiary with another Person.

Affiliate: with respect to a specified Person, another Person that directly, or indirectly through one or more intermediaries, Controls or is Controlled by or is under common Control with the Person specified. "Control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through the ability to exercise voting power, by contract or otherwise. "Controlling" and "Controlled" have correlative meanings.

Allocable Amount: as defined in **Section 5.7.3**.

Anti-Terrorism Law: any law relating to terrorism or money laundering, including the Patriot Act.

Applicable Law: all laws, rules, regulations and governmental guidelines applicable to the Person, conduct, transaction, agreement or matter in question, including all applicable statutory law, common law and equitable principles, and all provisions of constitutions, treaties, statutes, rules, regulations, orders and decrees of Governmental Authorities.

Asset Disposition: a sale, lease, license, consignment, transfer or other disposition of Property of an Obligor, including a disposition of Property in connection with a sale-leaseback transaction or synthetic lease.

Availability: as defined in the Senior Loan Agreement.

Bank Product Debt: as defined in the Senior Loan Agreement.

Bankruptcy Code: Title 11 of the United States Code.

Board of Governors: the Board of Governors of the Federal Reserve System.

Borrowed Money: with respect to any Obligor, without duplication, its (a) Debt that (i) arises from the lending of money by any Person to such Obligor, (ii) is evidenced by notes, drafts, bonds, debentures, credit documents or similar instruments, (iii) accrues interest or is a type upon which interest charges are customarily paid (excluding trade payables owing in the Ordinary Course of Business), or (iv) was issued or assumed as full or partial payment for Property; (b) Capital Leases; (c) reimbursement obligations with respect to letters of credit; and (d) guaranties of any Debt of the foregoing types owing by another Person.

Borrower Agent: as defined in **Section 4.1**.

Business Day: any day other than a Saturday, Sunday or other day on which commercial banks are authorized to close under the laws of, or are in fact closed in, North Carolina and Georgia.

Capital Expenditures: all liabilities incurred or expenditures made by a Borrower or Subsidiary for the acquisition of fixed assets, or any improvements, replacements, substitutions or additions thereto with a useful life of more than one year.

Capital Lease: any lease that is required to be capitalized for financial reporting purposes in accordance with GAAP.

Cash Collateral: cash, and any interest or other income earned thereon, that is delivered to Lender to Cash Collateralize any Obligations.

Cash Collateralize: the delivery of cash to Lender, as security for the payment of Obligations, in an amount equal to, with respect to any inchoate, contingent or other Obligations (but excluding unasserted inchoate or contingent indemnification obligations), Lender's good faith estimate of the amount due or to become due, including fees, expenses and indemnification hereunder. "Cash Collateralization" has a correlative meaning.

Cash Equivalents: (a) marketable obligations issued or unconditionally guaranteed by, and backed by the full faith and credit of, the United States government, maturing within 12 months of the date of acquisition; (b) certificates of deposit, time deposits and bankers' acceptances maturing within 12 months of the date of acquisition, and overnight bank deposits, in each case which are issued by a commercial bank (including Lender) organized under the laws of the United States or any state or district thereof, rated A-1 (or better) by S&P or P-1 (or better) by Moody's at the time of acquisition, and (unless issued by Lender) not subject to offset rights; (c) repurchase obligations with a term of not more than 30 days for underlying investments of the types described in clauses (a) and (b) entered into with any bank meeting the qualifications specified in clause (b); (d) commercial paper issued by Lender or rated A-1 (or better) by S&P or P-1 (or better) by Moody's, and maturing within nine months of the date of acquisition; and (e) shares of any money market fund that has substantially all of its assets invested continuously in the types of investments referred to above, has net assets of at least \$500,000,000 and has the highest rating obtainable from either Moody's or S&P.

CERCLA: the Comprehensive Environmental Response Compensation and Liability Act (42 U.S.C. § 9601 et seq.).

Change of Control: (a) Jon Isaac ceases to (i) own and control, beneficially and of record, directly or indirectly, at least 25% of the Equity Interests of Live (or Live Ventures after the Live Restructuring Transaction), and (ii) be the Chief Executive Officer of Live (or Live Ventures after the Live Restructuring Transaction) or the Chairman of the Board of Directors of Live (or Live Ventures after the Live Restructuring Transaction); (b) Live (or Live Ventures after the Live Restructuring Transaction) ceases to own and control, beneficially and of record, directly or indirectly, at least 80% of Holdings; (c) Holdings ceases to own and control, beneficially and of record, at least 100% of the Equity Interests of Marquis; (d) Marquis ceases to own and control, beneficially and of record, directly or indirectly, all Equity Interests in all other Borrowers (other than Holdings) except as a result of a transaction specifically permitted by this Agreement; (e) a change in the majority of directors of Holdings during any 24 month period, unless approved by the majority of directors serving at the beginning of such period; or (f) the sale or transfer of all or substantially all assets of a Borrower, except to another Borrower.

Claims: all claims, liabilities, obligations, losses, damages, penalties, judgments, proceedings, interest, costs and expenses of any kind (including remedial response costs, reasonable attorneys' fees and Extraordinary Expenses) at any time (including after Full Payment of the Obligations) incurred by any Indemnitee or asserted against any Indemnitee by any Obligor or other Person, in any way relating to (a) the Loan, Loan Documents, or the use thereof or transactions relating thereto, (b) any action taken or omitted to be taken by any Indemnitee in connection with any Loan Documents, (c) the existence or perfection of any Liens, or realization upon any Collateral, (d) exercise of any rights or remedies under any Loan Documents or Applicable Law, or (e) failure by any Obligor to perform or observe any terms of any Loan Document, in each case including all costs and expenses relating to any investigation, litigation, arbitration or other proceeding (including an Insolvency Proceeding or appellate proceedings), whether or not the applicable Indemnitee is a party thereto.

Closing Date: as defined in **Section 6.1**.

Code: the Internal Revenue Code of 1986.

Collateral: all Property described in **Section 7.1**, all Property described in any Security Documents as security for any Obligations, and all other Property that now or hereafter secures (or is intended to secure) any Obligations.

Commodity Exchange Act: the Commodity Exchange Act (7 U.S.C. § 1 *et seq.*).

Compliance Certificate: a certificate, in form reasonably satisfactory to Lender and substance satisfactory to Lender, by which Borrowers certify compliance with **Section 10.3** and certain other matters set forth therein.

Contingent Obligation: any obligation of a Person arising from a guaranty, indemnity or other assurance of payment or performance of any Debt, lease, dividend or other obligation ("primary obligations") of another obligor ("primary obligor") in any manner, whether directly or indirectly, including any obligation of such Person under any (a) guaranty, endorsement, co-making or sale with recourse of an obligation of a primary obligor; (b) obligation to make take-or-pay or similar payments regardless of nonperformance by any other party to an agreement; and (c) arrangement (i) to purchase any primary obligation or security therefor, (ii) to supply funds for the purchase or payment of any primary obligation, (iii) to maintain or assure working capital, equity capital, net worth or solvency of the primary obligor, (iv) to purchase Property or services for the purpose of assuring the ability of the primary obligor to perform a primary obligation, or (v) otherwise to assure or hold harmless the holder of any primary obligation against loss in respect thereof. The amount of any Contingent Obligation shall be deemed to be the stated or determinable amount of the primary obligation (or, if less, the maximum amount for which such Person may be liable under the instrument evidencing the Contingent Obligation) or, if not stated or determinable, the maximum reasonably anticipated liability with respect thereto.

Copyright Security Agreement: that certain Copyright Security Agreement dated as of the Closing Date by and among Borrowers and Lender.

CWA: the Clean Water Act (33 U.S.C. §§ 1251 *et seq.*).

Debt: as applied to any Person, without duplication, (a) all items that would be included as liabilities on a balance sheet in accordance with GAAP, including Capital Leases, but excluding trade payables incurred and being paid in the Ordinary Course of Business; (b) all Contingent Obligations; (c) all reimbursement obligations in connection with letters of credit issued for the account of such Person; and (d) in the case of a Borrower, the Obligations. The Debt of a Person shall include any recourse Debt of any partnership in which such Person is a general partner or joint venturer.

Debt and Lien Subordination Agreement: the Debt and Lien Subordination Agreement of even date herewith, between Senior Lender and Lender, relating to the Senior Debt.

Default: an event or condition that, with the lapse of time or giving of notice, would constitute an Event of Default.

Default Rate: for any Obligation (including, to the extent permitted by law, interest not paid when due), 2.00% plus the interest rate otherwise applicable thereto.

Distribution: any declaration or payment of a distribution, interest or dividend on any Equity Interest (other than payment-in-kind); any distribution, advance or repayment of Debt to a holder of Equity Interests; or any purchase, redemption, or other acquisition or retirement for value of any Equity Interest.

Dollars: lawful money of the United States.

EBITDA: determined on a consolidated basis for Borrowers and Subsidiaries, net income, calculated before interest expense, transaction costs associated with the Transactions not to exceed \$1,000,000, provision for income taxes, depreciation and amortization expense, gains or losses arising from the sale of capital assets, gains arising from the write-up of assets, and any extraordinary gains, losses on impairment of long-lived assets and goodwill, unrealized gains and losses resulting in changes from fair values of derivatives and financial instruments (including changes in fair value of contingent consideration related to business combinations), directly related charges related to the consummation of business combinations, non-cash severance and restructuring charges, gains arising from the write-up of assets, extraordinary gains and losses (including losses and gains from extinguishment of debt) and non-recurring expenses and income which do not represent cash items in such period (in each case, to the extent included in determining net income). For purposes of this Agreement, EBITDA and its components for the 12 months prior to the Closing Date is as shown on **Exhibit A**.

Enforcement Action: any action to enforce any Obligations or Loan Documents or to realize upon any Collateral (whether by judicial action, self-help, notification of Account Debtors, exercise of setoff or recoupment, credit bid, action in an Obligor's Insolvency Proceeding or otherwise).

Environmental Agreement: an agreement of an Obligor to indemnify Lender from liability under Environmental Laws with respect to Real Estate subject to a Mortgage.

Environmental Laws: Applicable Laws (including programs, permits and guidance promulgated by regulators) relating to public health (other than occupational safety and health regulated by OSHA) or the protection or pollution of the environment, including CERCLA, RCRA and CWA.

Environmental Notice: a notice (whether written or oral) from any Governmental Authority or other Person of any possible noncompliance with, investigation of a possible violation of, litigation relating to, or potential fine or liability under any Environmental Law, or with respect to any Environmental Release, environmental pollution or hazardous materials, including any complaint, summons, citation, order, claim, demand or request for correction, remediation or otherwise.

Environmental Release: a release as defined in CERCLA or under any other Environmental Law.

Equity Contribution: shall have the meaning ascribed to it in the recitals hereto.

Equity Interest: the interest of any (a) shareholder in a corporation; (b) partner in a partnership (whether general, limited, limited liability or joint venture); (c) member in a limited liability company; or (d) other Person having any other form of equity security or ownership interest.

Equity Interest Pledge Agreement: that certain Pledge Agreement dated as of the Closing Date by and among Holdings, Marquis and Lender.

ERISA: the Employee Retirement Income Security Act of 1974.

ERISA Affiliate: any trade or business (whether or not incorporated) under common control with an Obligor within the meaning of Section 414(b) or (c) of the Code (and Sections 414(m) and (o) of the Code for purposes of provisions relating to Section 412 of the Code).

ERISA Event: (a) a Reportable Event with respect to a Pension Plan; (b) a withdrawal by any Obligor or ERISA Affiliate from a Pension Plan subject to Section 4063 of ERISA during a plan year in which it 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) a complete or partial withdrawal by any Obligor or ERISA Affiliate from a Multiemployer Plan or notification that a Multiemployer Plan is in reorganization; (d) the filing of a notice of intent to terminate, the treatment of a Plan amendment as a termination under Section 4041 or 4041A of ERISA, or the commencement of proceedings by the PBGC to terminate a Pension Plan or Multiemployer Plan; (e) the determination that any Pension Plan or Multiemployer Plan is considered an at risk plan or a plan in critical or endangered status under the Code, ERISA or the Pension Protection Act of 2006; (f) an event or condition which constitutes grounds under Section 4042 of ERISA for the termination of, or the appointment of a trustee to administer, any Pension Plan or Multiemployer Plan; or (g) the imposition of any liability under Title IV of ERISA, other than for PBGC premiums due but not delinquent under Section 4007 of ERISA, upon any Obligor or ERISA Affiliate.

Event of Default: as defined in **Section 11**.

Excluded Assets:

(a) any rights of an Obligor in any contract, license, right or other agreement if under the terms thereof, or any Applicable Law with respect thereto, the valid grant of a security interest therein to Lender is prohibited and such prohibition has not been waived or the consent of the other party to such contract or license has not been obtained or, under Applicable Law, such prohibition cannot be waived; provided however that (i) the "Excluded Assets" shall not be interpreted (A) to apply to any contract, license, right or other agreement to the extent the applicable prohibition is ineffective or unenforceable under the UCC (including Sections 9-406 through 9-409 or any other Applicable Law), or (B) so as to limit, impair or otherwise affect Lender's unconditional continuing security interest in and Lien upon any rights or interests of such Obligor in or to moneys due or to become due under any such contract, license, right or other agreement (including any Accounts) and (ii) notwithstanding the foregoing, Lender's security interest in any such contract, license, right or other agreement shall attach immediately (and thus become Collateral hereunder) at such time as the condition causing such prohibition or default is remedied or removed, and

(b) any intent-to-use trademark application to the extent that, and solely during the period in which, the grant of a security interest therein to Lender would impair the validity or enforceability of such intent-to-use trademark application or the trademark that is the subject of such application under federal law;

provided that "Excluded Assets" shall not include any right to receive proceeds from the sale or other disposition of any Excluded Asset or any proceeds, products, substitutions or replacements of Excluded Assets.

Excluded Swap Obligation: with respect to an Obligor, each Swap Obligation as to which, and only to the extent that, such Obligor's guaranty of or grant of a Lien as security for such Swap Obligation is or becomes illegal under the Commodity Exchange Act because the Obligor does not constitute an "eligible contract participant" as defined in the act (determined after giving effect to any keepwell, support or other agreement for the benefit of such Obligor and all guarantees of Swap Obligations by other Obligors) when such guaranty or grant of Lien becomes effective with respect to the Swap Obligation. If a Hedging Agreement governs more than one Swap Obligation, only the Swap Obligation(s) or portions thereof described in the foregoing sentence shall be Excluded Swap Obligation(s) for the applicable Obligor.

Excluded Taxes: (a) Taxes imposed on or measured by a Recipient's net income (however denominated), franchise Taxes and branch profits Taxes (i) as a result of such Recipient being organized under the laws of, or having its principal office or, in the case of Lender, its lending office located in, the jurisdiction imposing such Tax, or (ii) constituting Other Connection Taxes; and (b) U.S. federal withholding Taxes imposed pursuant to FATCA.

Extraordinary Expenses: all costs, expenses or advances that Lender may incur during a Default or Event of Default, or during the pendency of an Insolvency Proceeding of an Obligor, including those relating to (a) any audit, inspection, repossession, storage, repair, appraisal, insurance, manufacture, preparation or advertising for sale, sale, collection, or other preservation of or realization upon any Collateral; (b) any action, arbitration or other proceeding (whether instituted by or against Lender, any Obligor, any representative of creditors of an Obligor or any other Person) in any way relating to any Collateral (including the validity, perfection, priority or avoidability of Lender's Liens with respect to any Collateral), Loan Documents, or Obligations, including any lender liability or other Claims; (c) the exercise of any rights or remedies of Lender in, or the monitoring of, any Insolvency Proceeding; (d) settlement or satisfaction of taxes, charges or Liens with respect to any Collateral; (e) any Enforcement Action; and (f) negotiation and documentation of any modification, waiver, workout, restructuring or forbearance with respect to any Loan Documents or Obligations. Such costs, expenses and advances include transfer fees, Other Taxes, storage fees, insurance costs, permit fees, utility reservation and standby fees, legal fees, appraisal fees, brokers' and auctioneers' fees and commissions, accountants' fees, environmental study fees, wages and salaries paid to employees of any Obligor or independent contractors in liquidating any Collateral, and travel expenses.

Factor: The CIT Group/Commercial Services, Inc., Branch Banking and Trust Company or any other factor reasonably acceptable to, and agreed to in writing by, Lender, and "Factors" means all of such entities collectively.

Factored Account: shall mean an account of a Borrower which is factored by a Factor under a Factoring Agreement.

Factoring Agreement: a factoring agreement by and between a Factor and a Borrower, in form and substance reasonably acceptable to Lender, with respect to the factoring of Accounts arising from sales by such Borrower to Account Debtors located in the United States of America, and "Factoring Agreements" means all such agreements collectively.

Factor Intercreditor Agreement: as defined in the Senior Loan Agreement.

FATCA: Sections 1471 through 1474 of the Code (including any amended or successor version if substantively comparable and not materially more onerous to comply with), and any agreements entered into pursuant to Section 1471(b)(1) of the Code.

Fiscal Quarter: each period of three months, commencing on the first day of a Fiscal Year.

Fiscal Year: the fiscal year of Borrowers and Subsidiaries for accounting and tax purposes, ending on September 30 of each year.

Fixed Charge Coverage Ratio: the ratio, determined on a consolidated basis for Borrowers and Subsidiaries for the most recent 12 months, of (a) EBITDA minus Capital Expenditures (except those financed with Borrowed Money other than Revolver Loans), to (b) Fixed Charges. For purposes of this Agreement, Fixed Charge Coverage Ratio and its components for the 12 months prior to the Closing Date is as shown on **Exhibit A**.

Fixed Charges: the sum of interest expense (other than payment-in-kind) and principal payments made on Borrowed Money, income taxes paid in cash and Distributions made (excluding Upstream Payments).

FLSA: the Fair Labor Standards Act of 1938.

Foreign Plan: any employee benefit plan or arrangement (a) maintained or contributed to by any Obligor or Subsidiary that is not subject to the laws of the United States; or (b) mandated by a government other than the United States for employees of any Obligor or Subsidiary.

Foreign Subsidiary: a Subsidiary that is a "controlled foreign corporation" under Section 957 of the Code, such that a guaranty by such Subsidiary of the Obligations or a Lien on the assets of such Subsidiary to secure the Obligations would result in material tax liability to Borrowers.

Full Payment: with respect to any Obligations, (a) the full and indefeasible cash payment thereof, including any interest, fees and other charges accruing during an Insolvency Proceeding (whether or not allowed in the proceeding); (b) if such Obligations are inchoate or contingent in nature, Cash Collateralization thereof (or delivery of a standby letter of credit acceptable to Lender in its discretion, in the amount of required Cash Collateral); and (c) a release of any Claims of Obligors against Lender arising on or before the payment date.

GAAP: generally accepted accounting principles in effect in the United States from time to time.

Governmental Approvals: all authorizations, consents, approvals, licenses and exemptions of, registrations and filings with, and required reports to, all Governmental Authorities.

Governmental Authority: any federal, state, county, municipal, foreign or other governmental agency, authority, body, commission, court, instrumentality, political subdivision, central bank, or other entity or officer exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions for any governmental, judicial, investigative, regulatory or self-regulatory authority (including any supra-national bodies such as the European Union or European Central Bank).

Guarantor Payment: as defined in **Section 5.7.3**.

Guarantors: each Person that guarantees payment or performance of Obligations.

Guaranty: each guaranty agreement executed by a Guarantor in favor of Lender.

Hedging Agreement: any "swap agreement" as defined in Section 101(53B)(A) of the Bankruptcy Code.

Indemnified Taxes: (a) Taxes, other than Excluded Taxes, imposed on or relating to any payment of an Obligation; and (b) to the extent not otherwise described in clause (a), Other Taxes.

Indemnitees: Lender and its managers, members, officers, directors, employees, Affiliates, agents and attorneys.

Initial Advance: as defined in **Section 2.1**.

Insolvency Proceeding: any case or proceeding commenced by or against a Person under any state, federal or foreign law for, or any agreement of such Person to, (a) the entry of an order for relief under the Bankruptcy Code, or any other applicable insolvency, debtor relief or debt adjustment law; (b) the appointment of a receiver, trustee, liquidator, administrator, conservator or other custodian for such Person or any part of its Property; or (c) an assignment or trust mortgage for the benefit of creditors.

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

Intellectual Property Claim: any claim or assertion (whether in writing, by suit or otherwise) that a Borrower's or Subsidiary's ownership, use, marketing, sale or distribution of any Inventory, Equipment, Intellectual Property or other Property violates another Person's Intellectual Property.

Inventory: as defined in the UCC, including all goods intended for sale, lease, display or demonstration; all work in process; and all raw materials, and other materials and supplies of any kind that are or could be used in connection with the manufacture, printing, packing, shipping, advertising, sale, lease or furnishing of such goods, or otherwise used or consumed in a Borrower's business (but excluding Equipment).

Investment: an Acquisition, an acquisition of record or beneficial ownership of any Equity Interests of a Person, or an advance or capital contribution to or other investment in a Person; provided, that, Capital Expenditures shall not in and of themselves constitute "Investments".

IRS: the United States Internal Revenue Service.

License: any license or agreement under which an Obligor is authorized to use Intellectual Property (other than off-the-shelf software) in connection with any manufacture, marketing, distribution or disposition of Collateral, any use of Property or any other conduct of its business.

Licensor: any Person from whom an Obligor obtains the right to use any Intellectual Property.

Lien: a Person's interest in Property securing an obligation owed to, or a claim by, such Person, including any lien, security interest, pledge, hypothecation, assignment, trust, reservation, encroachment, easement, right-of-way, covenant, condition, restriction, lease, or other title exception or encumbrance.

Lien Waiver: an agreement, in form and substance reasonably satisfactory to Lender, by which (a) for any material Collateral located on leased premises, the lessor waives or subordinates any Lien it may have on the Collateral, and agrees to permit Lender to enter upon the premises and remove the Collateral or to use the premises to store or dispose of the Collateral; (b) for any Collateral held by a warehouseman, processor, shipper, customs broker or freight forwarder, such Person waives or subordinates any Lien it may have on the Collateral, agrees to hold any Documents in its possession relating to the Collateral as agent for Lender, and agrees to deliver the Collateral to Lender upon request; (c) for any Collateral held by a repairman, mechanic or bailee, such Person acknowledges Lender's Lien, waives or subordinates any Lien it may have on the Collateral, and agrees to deliver the Collateral to Lender upon request; and (d) for any Collateral subject to a Licensor's Intellectual Property rights, the Licensor grants to Lender the right, vis-à-vis such Licensor, to enforce Lender's Liens with respect to the Collateral, including the right to dispose of it with the benefit of the Intellectual Property, whether or not a default exists under any applicable License.

Live: LiveDeal, Inc., a Nevada corporation.

Live Restructuring Transaction: a transaction anticipated to be consummated after the Closing Date pursuant to which Live becomes a wholly-owned subsidiary of Live Ventures, Live ceases to be publicly traded and Live Ventures becomes publicly traded.

Loan: a term loan in the original principal amount of up to \$7,000,000.

Loan Documents: this Agreement, the Note, Other Agreements and Security Documents.

Loan Year: each 12 month period commencing on the Closing Date and on each anniversary of the Closing Date.

Margin Stock: as defined in Regulation U of the Board of Governors.

Marquis Acquisition: shall have the meaning ascribed to it in the recitals hereto.

Marquis SPA: shall have the meaning ascribed to it in the recitals hereto.

Marquis SPA Documents: shall have the meaning ascribed to it in the recitals hereto.

Material Adverse Effect: the effect of any event or circumstance that, taken alone or in conjunction with other events or circumstances, (a) has or could be reasonably expected to have a material adverse effect on the business, operations, Properties or condition (financial or otherwise) of Obligors, taken as a whole, on the value of any material Collateral, on the enforceability of any Loan Documents, or on the validity or priority of Lender's Liens on any Collateral; (b) impairs the ability of an Obligor to perform its obligations under the Loan Documents, including repayment of any Obligations; or (c) otherwise impairs the ability of Lender to enforce or collect any Obligations or to realize upon any material Collateral.

Material Contract: any agreement or arrangement to which a Borrower or Subsidiary is party (other than the Loan Documents) (a) that is deemed to be a material contract under any securities law applicable to such Person, including the Securities Act of 1933; (b) for which breach, termination, nonperformance or failure to renew could reasonably be expected to have a Material Adverse Effect; or (c) that relates to Senior Debt, or to Debt in an aggregate amount of \$1,250,000 or more.

Maturity Date: January 6, 2021.

Moody's: Moody's Investors Service, Inc., and its successors.

Mortgage: a mortgage or deed of trust in which an Obligor grants a Lien on its Real Estate to Lender, as security for its Obligations.

Multiemployer Plan: any employee benefit plan of the type described in Section 4001(a)(3) of ERISA, to which any Obligor or ERISA Affiliate makes or is obligated to make contributions, or during the preceding five plan years, has made or been obligated to make contributions.

Net Proceeds: with respect to an Asset Disposition, proceeds (including, when received, any deferred or escrowed payments) received by a Borrower or Subsidiary in cash from such disposition, net of bona fide direct costs incurred in connection therewith, including (a) reasonable and customary costs and expenses actually incurred in connection therewith, including legal fees and sales commissions and fees of accountants, investment bankers and consultants; (b) amounts applied to repayment of Debt (including Senior Debt) secured by a Permitted Lien senior to Lender's Liens on Collateral sold; (c) transfer or similar taxes; and (d) reserves for indemnities, until such reserves are no longer needed.

Note: as defined in **Section 2.1**.

Obligations: all (a) principal of the Loan, (b) interest, expenses, fees, indemnification obligations, Extraordinary Expenses and other amounts payable by Obligors under Loan Documents, and (c) other Debts, obligations and liabilities of any kind owing by any Obligor to Lender, whether now existing or hereafter arising, whether evidenced by a note or other writing, whether allowed in any Insolvency Proceeding, whether arising from an extension of credit, issuance of a letter of credit, acceptance, loan, guaranty, indemnification or otherwise, and whether direct or indirect, absolute or contingent, due or to become due, primary or secondary, or joint or several; provided, that Obligations of an Obligor shall not include its Excluded Swap Obligations.

Obligor: each Borrower, Guarantor, or other Person that is liable for payment of any Obligations or that has granted a Lien in favor of Lender on its assets to secure any Obligations.

OFAC: Office of Foreign Assets Control of the U.S. Treasury Department.

Ordinary Course of Business: the ordinary course of business of any Borrower or Subsidiary, undertaken in good faith and consistent with Applicable Law and past practices.

Organic Documents: with respect to any Person, its charter, certificate or articles of incorporation, bylaws, articles of organization, limited liability agreement, operating agreement, members agreement, shareholders agreement, partnership agreement, certificate of partnership, certificate of formation, voting trust agreement, or similar agreement or instrument governing the formation or operation of such Person.

OSHA: the Occupational Safety and Hazard Act of 1970.

Other Agreement: the Debt and Lien Subordination Agreement and each Lien Waiver, Real Estate Related Document, Compliance Certificate, financial statement or report delivered hereunder, or any other document, instrument or agreement (other than this Agreement or a Security Document) now or hereafter delivered by an Obligor or other Person to Lender in connection with any transactions relating hereto.

Other Connection Taxes: Taxes imposed on a Recipient due to a present or former connection between it and the taxing jurisdiction (other than connections arising from the Recipient having executed, delivered, become party to, performed obligations or received payments under, received or perfected a Lien or engaged in any other transaction pursuant to, enforced, or sold or assigned an interest in, any Loan or Loan Document).

Other Taxes: all present or future stamp, court, documentary, intangible, recording, filing or similar Taxes that arise from any payment made under, from the execution, delivery, performance, enforcement or registration of, from the receipt or perfection of a Lien under, or otherwise with respect to, any Loan Document, except Other Connection Taxes imposed with respect to an assignment.

Patriot Act: the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, Pub. L. No. 107-56, 115 Stat. 272 (2001).

Payment Item: each check, draft or other item of payment payable to a Borrower, including those constituting proceeds of any Collateral.

PBGC: the Pension Benefit Guaranty Corporation.

Pension Plan: any employee pension benefit plan (as defined in Section 3(2) of ERISA), other than a Multiemployer Plan, that is subject to Title IV of ERISA and is sponsored or maintained by any Obligor or ERISA Affiliate or to which the Obligor or ERISA Affiliate contributes or has an obligation to contribute, or in the case of a multiple employer or other plan described in Section 4064(a) of ERISA, has made contributions at any time during the preceding five plan years.

Permitted Acquisition: any Acquisition as long as (a) no Default or Event of Default exists or is caused thereby; (b) the Acquisition is consensual; (c) the assets, business or Person being acquired is useful or engaged in the business of Borrowers and Subsidiaries, is located or organized within the United States, and had positive unadjusted EBITDA for the 12 month period most recently ended; (d) no Debt or Liens are incurred, assumed or result from the Acquisition, except Debt permitted under **Section 10.2.1(g)** or **(i)**; (e) Lender has received the financial statements required under **Section 10.1.2(a)(ii)**; (f) the total consideration (including deferred payment obligations and Debt assumed or incurred), when aggregated with the total consideration for all other Acquisitions made during the preceding 12 months, is less than \$6,250,000; (g) Availability on each day during the 90 day period immediately preceding such Acquisition calculated on a pro forma basis assuming such Acquisition occurred on the first day of such period shall be greater than or equal to \$3,200,000; (h) Availability, on the date of such Acquisition, immediately after giving pro forma effect to the consummation of such Acquisition shall be greater than or equal to \$3,200,000; (i) Lender has received evidence that after giving effect to the consummation of such Acquisition, Borrowers shall maintain a Fixed Charge Coverage Ratio of at least 1.0 to 1.0 on a pro forma basis, measured as of the most recently ended month for which Obligors have delivered the financial statements required under **Section 10.1.2(a)** or **(b)**, as the case may be, for the twelve month period then ended; (j) at the time of any such proposed Acquisition, the outstanding balance of the Term Loan is less than or equal to \$5,625,000; and (k) Borrowers deliver to Lender, at least 10 Business Days prior to the Acquisition, copies of all material agreements relating thereto and a certificate, in form and substance satisfactory to Lender, stating that the Acquisition is a "Permitted Acquisition" and demonstrating compliance with the foregoing requirements.

Permitted Asset Disposition: as long as no Default or Event of Default exists and all Net Proceeds are remitted to Lender, an Asset Disposition that is (a) a sale of Inventory in the Ordinary Course of Business; (b) a disposition of Equipment that, in the aggregate during any 12 month period, has a fair market or book value (whichever is more) of \$625,000 or less; (c) a disposition of Inventory that is obsolete, unmerchantable or otherwise unsalable or replaced in the Ordinary Course of Business; (d) termination of a lease of real or personal Property that is not necessary for the Ordinary Course of Business, where such termination could not reasonably be expected to have a Material Adverse Effect and does not result from an Obligor's default; (e) sales of Factored Accounts to a Factor pursuant to a Factoring Agreement; (f) a discount or other compromise for less than face value of notes or Accounts in the Ordinary Course of Business; (g) a sale or disposition to a Borrower to the extent permitted herein; (h) transfers of Property subject to condemnation or casualty events; (i) as long as no Default or Event of Default is continuing or would result therefrom, any other disposition of Property other than Accounts or Inventory for fair market value so long as (i) at least 60% of the consideration received for such sale shall be cash and (ii) the Value of the Property so disposed shall not exceed \$1,250,000 per Fiscal Year; or (j) approved in writing by Lender.

Permitted Contingent Obligations: Contingent Obligations (a) arising from endorsements of Payment Items for collection or deposit in the Ordinary Course of Business; (b) arising from Hedging Agreements permitted hereunder; (c) existing on the Closing Date, and any extension or renewal thereof that does not increase the amount of such Contingent Obligation when extended or renewed; (d) incurred in the Ordinary Course of Business with respect to workers' compensation claims, self-insurance obligations, surety, appeal or performance bonds, or other similar obligations; (e) arising from customary indemnification obligations in favor of purchasers in connection with dispositions of Equipment permitted hereunder; (f) arising under the Loan Documents; or (g) in an aggregate amount of \$625,000 or less at any time.

Permitted Lien: as defined in **Section 10.2.2**.

Permitted Non-Tax Distributions: Distributions by Holdings to holders of its Equity Interests so long as the following conditions are satisfied: (a) no Default or Event of Default has occurred or would result from such Distribution, (b) Lender has received the financial statements required under **Section 10.1.2(a)(ii)**, (c) Lender has received evidence that after giving effect to the consummation of such Distribution, Borrowers shall maintain a Fixed Charge Coverage Ratio of at least 1.0 to 1.0 on a pro forma basis, measured as of the most recently ended month for which Obligor's have delivered the financial statements required under **Section 10.1.2(a) or (b)**, as the case may be, for the twelve month period then ended, (d) Availability on each day during the 90 day period immediately preceding such Distribution calculated on a pro forma basis assuming such Distribution occurred on the first day of such period shall be greater than or equal to \$3,200,000, (e) Availability, on the date of such Distribution, immediately after giving pro forma effect to the consummation of such Distribution shall be greater than or equal to \$3,200,000 and (f) at the time of any such proposed Distribution, the outstanding balance of the Loan is less than or equal to \$5,625,000.

Permitted Purchase Money Debt: Purchase Money Debt of Borrowers and Subsidiaries that is unsecured or secured only by a Purchase Money Lien, as long as the aggregate amount does not exceed \$6,250,000 at any time.

Permitted Tax Distributions: for so long as Holdings is taxed as a partnership for federal income tax purposes in accordance with the Code, a cash Distribution by Holdings to holders of its Equity Interests no more frequently than once each Fiscal Quarter (each a "Tax Distribution") based upon the consolidated taxable income of Borrowers under Section 703(c) of the Code in an amount that is not in excess of the amount necessary to pay federal, state and local income taxes (including quarterly estimated tax payments) solely attributable to the holders' distributive shares of the consolidated taxable income of Borrowers determined assuming each holder is subject to taxation at a rate that is equal to the highest federal, state and local income tax rate payable by any holder of Equity Interests in Borrowers for the applicable tax year. If any Tax Distribution is made as set forth in **Section 10.2.4**, Borrowers shall deliver to Lender, as soon as practicable following the last day of the taxable year of Borrowers for which any such Tax Distribution is made, a true and correct copy of each Schedule K-1 delivered by Borrowers to the holders of its Equity Interests for such taxable year.

Person: any individual, corporation, limited liability company, partnership, joint venture, association, trust, unincorporated organization, Governmental Authority or other entity.

Plan: any employee benefit plan (as such term is defined in Section 3(3) of ERISA) established by an Obligor or, with respect to any such plan that is subject to Section 412 of the Code or Title IV of ERISA, an ERISA Affiliate.

Properly Contested: with respect to any obligation of an Obligor, (a) the obligation is subject to a bona fide dispute regarding amount or the Obligor's liability to pay; (b) the obligation is being properly contested in good faith by appropriate proceedings promptly instituted and diligently pursued; (c) appropriate reserves have been established in accordance with GAAP; (d) non-payment could not have a Material Adverse Effect, nor result in forfeiture or sale of any assets of the Obligor; (e) no Lien is imposed on assets of the Obligor, unless bonded and stayed to the satisfaction of Lender; and (f) if the obligation results from entry of a judgment or other order, such judgment or order is stayed pending appeal or other judicial review.

Property: any interest in any kind of property or asset, whether real, personal or mixed, or tangible or intangible.

Purchase Money Debt: (a) Debt (other than the Obligations) for payment of any of the purchase price of fixed assets (including equipment and vehicles); (b) Debt (other than the Obligations) incurred within 10 days before or after acquisition of any fixed assets (including equipment and vehicles), for the purpose of financing any of the purchase price thereof; and (c) any renewals, extensions or refinancings (but not increases) thereof.

Purchase Money Lien: a Lien that secures Purchase Money Debt, encumbering only the fixed assets acquired with such Debt and constituting a Capital Lease or a purchase money security interest under the UCC.

Qualified ECP: an Obligor with total assets exceeding \$10,000,000, or that constitutes an "eligible contract participant" under the Commodity Exchange Act and can cause another Person to qualify as an "eligible contract participant" under Section 1a(18)(A)(v)(II) of such act.

RCRA: the Resource Conservation and Recovery Act (42 U.S.C. §§ 6991-6991i).

Real Estate: all right, title and interest (whether as owner, lessor or lessee) in any real Property or any buildings, structures, parking areas or other improvements thereon.

Recipient: Lender or any other recipient of a payment to be made by an Obligor under a Loan Document or on account of an Obligation.

Refinancing Conditions: the following conditions for Refinancing Debt: (a) it is in an aggregate principal amount that does not exceed the principal amount of the Debt being extended, renewed or refinanced; (b) it has a final maturity no sooner than, and a weighted average life no less than the Debt being extended, renewed or refinanced and an interest rate at a rate that does not exceed a rate that is 4.00% higher than the interest rate of the Debt being extended, renewed or refinanced; (c) if such Refinancing Debt is in relation to Subordinated Debt, (i) such Refinancing Debt satisfies all of the requirements under this Agreement to constitute Subordinated Debt, (ii) the subordination agreement with respect thereto is not materially less favorable to Lender than the subordination agreement with respect to the Subordinated Debt being extended, renewed or refinanced, and (iii) it is subordinated to the Obligations at least to the same extent as the Debt being extended, renewed or refinanced; (d) the representations, covenants and defaults applicable to it taken as a whole are not materially less favorable to Borrowers than those applicable to the Debt being extended, renewed or refinanced; (e) no additional Lien is granted to secure it; (f) no additional Person is obligated on such Debt; and (g) upon giving effect to it, no Default or Event of Default exists.

Refinancing Debt: Borrowed Money that is the result of an extension, renewal or refinancing of Debt permitted under **Section 10.2.1(b), (c) or (e)**.

Related Real Estate Documents: with respect to any Real Estate subject to a Mortgage, the following, in form and substance reasonably satisfactory to Lender and received by Lender for review at least 5 days prior to the effective date of the Mortgage: (a) a mortgagee title policy (or binder therefor) covering Lender's interest under the Mortgage and all endorsements thereto and affirmative coverages thereunder required by Lender, by an insurer reasonably acceptable to Lender, which must be fully paid on such effective date; (b) such assignments of leases, estoppel letters, attornment agreements, consents, waivers and releases as Lender may require with respect to other Persons having an interest in the Real Estate; (c) a current, as-built survey of the Real Estate, containing a metes-and-bounds property description and certified by a licensed surveyor acceptable to Lender or, if acceptable to title insurer to remove the general survey exception from and to provide the endorsements to and affirmative coverages under the mortgagee title policy described in clause (a) above, a non-current, as-built survey of the Real Estate and a "no change affidavit" from the applicable Borrower; (d) a life-of-loan flood hazard determination and, if the Real Estate is located in a special flood hazard area, an acknowledged notice to borrower and flood insurance by an insurer reasonably acceptable to Lender; (e) a current appraisal of the Real Estate, prepared by an appraiser, and in form and substance reasonably satisfactory to Lender; (f) an environmental assessment, prepared by environmental engineers acceptable to Lender, and such other reports, certificates, studies or data as Lender may reasonably require; and (g) an Environmental Agreement and such other documents, instruments or agreements as Lender may reasonably require with respect to any environmental risks regarding the Real Estate.

Reportable Event: any of the events set forth in Section 4043(c) of ERISA, other than events for which the 30 day notice period has been waived.

Restricted Investment: any Investment by a Borrower or Subsidiary, other than (a) Investments in Subsidiaries to the extent existing on the Closing Date; (b) Cash Equivalents that are subject to Lender's Lien and control, pursuant to documentation in form and substance reasonably satisfactory to Lender; (c) loans and advances permitted under **Section 10.2.7**; (d) Permitted Acquisitions; and (e) any Investment (other than a loan or advance, which is addressed in clause (c) of this definition) so long as (i) no Default or Event of Default has occurred or would result from such Investment, (b) Lender has received the financial statements required under **Section 10.1.2(a)(ii)**, (c) Lender has received evidence that after giving effect to the consummation of such Investment, Borrowers shall maintain a Fixed Charge Coverage Ratio of at least 1.0 to 1.0 on a pro forma basis, measured as of the most recently ended month for which Obligor has delivered the financial statements required under **Section 10.1.2(a) or (b)**, as the case may be, for the twelve month period then ended, (d) Availability on each day during the 90 day period immediately preceding such Investment calculated on a pro forma basis assuming such Investment occurred on the first day of such period shall be greater than or equal to \$3,200,000, (e) Availability, on the date of such Investment, immediately after giving pro forma effect to the consummation of such Investment shall be greater than or equal to \$3,200,000 and (f) at the time of any such proposed Investment, the outstanding balance of the Loan is less than or equal to \$5,625,000.

Restrictive Agreement: an agreement (other than a Loan Document, a Senior Debt Document or a document relating to Subordinated Debt) that conditions or restricts the right of any Borrower, Subsidiary or other Obligor to incur or repay Borrowed Money, to grant Liens on any assets, to declare or make Distributions, to modify, extend or renew any agreement evidencing Borrowed Money, or to repay any intercompany Debt.

Revolver Loans: as defined in the Senior Loan Agreement.

Royalties: all royalties, fees, expense reimbursement and other amounts payable by a Borrower under a License.

S&P: Standard & Poor's Financial Services LLC, a subsidiary of The McGraw-Hill Companies, Inc., and any successor thereto.

Sanction: any international economic sanction administered or enforced by the United States Government (including OFAC), the United Nations Security Council, the European Union, Her Majesty's Treasury or other relevant sanctions authority.

Security Documents: the Equity Interest Pledge Agreement, Guaranties, Mortgages, Trademark Security Agreement, Copyright Security Agreement and all other documents, instruments and agreements now or hereafter securing (or given with the intent to secure) any Obligations.

Senior Debt: as defined in the Debt and Lien Subordination Agreement.

Senior Debt Documents: shall have the meaning ascribed to it in the recitals hereto.

Senior Lender: Bank of America, N.A., a national banking association.

Senior Loan Agreement: that certain Loan and Security Agreement dated as of the date hereof by and among Senior Lender and Borrowers.

Senior Officer: the chairman of the board, president, chief executive officer or chief financial officer of a Borrower or, if the context requires, an Obligor.

Solvent: as to any Person, such Person (a) owns Property whose fair salable value (as defined below) is greater than the amount required to pay all of its debts (including contingent, subordinated, unmatured and unliquidated liabilities); (b) owns Property whose present fair salable value is greater than the probable total liabilities (including contingent, subordinated, unmatured and unliquidated liabilities) of such Person as they become absolute and matured; (c) is able to pay all of its debts as they mature; (d) has capital that is not unreasonably small for its business and is sufficient to carry on its business and transactions and all business and transactions in which it is about to engage; (e) is not "insolvent" within the meaning of Section 101(32) of the Bankruptcy Code; and (f) has not incurred (by way of assumption or otherwise) any obligations or liabilities (contingent or otherwise) under any Loan Documents, or made any conveyance in connection therewith, with actual intent to hinder, delay or defraud either present or future creditors of such Person or any of its Affiliates. "Fair salable value" means the amount that could be obtained for assets within a reasonable time, either through collection or through sale under ordinary selling conditions by a capable and diligent seller to an interested buyer who is willing (but under no compulsion) to purchase.

Specified Obligor: an Obligor that is not then an "eligible contract participant" under the Commodity Exchange Act (determined prior to giving effect to **Section 5.7.3**).

Subordinated Debt: Debt incurred by a Borrower that is expressly subordinate and junior in right of payment to Full Payment of all Obligations, and is on terms (including maturity, interest, fees, repayment, covenants and subordination) reasonably satisfactory to Lender.

Subsequent Advance: as defined in **Section 2.1**.

Subsidiary: any entity at least 50% of whose voting securities or Equity Interests is owned by a Borrower or combination of Borrowers (including indirect ownership through other entities in which a Borrower directly or indirectly owns 50% of the voting securities or Equity Interests).

Swap Obligations: with respect to an Obligor, its obligations under a Hedging Agreement that constitutes a "swap" within the meaning of Section 1a(47) of the Commodity Exchange Act.

Taxes: all present or future taxes, levies, imposts, duties, deductions, withholdings, assessments, fees or other charges imposed by any Government Authority, including any interest, additions to tax or penalties applicable thereto.

Term Loan: as defined in the Senior Loan Agreement.

Trademark Security Agreement: that certain Trademark Security Agreement dated as of the Closing Date by and between Marquis and Lender.

Transactions: collectively, the transactions contemplated in connection with the consummation of the Loan made under this Agreement on the Closing Date, the consummation of the transactions contemplated by the Senior Debt Documents and the Equity Contribution and the consummation of the Marquis Acquisition.

UCC: the Uniform Commercial Code as in effect in the State of Georgia or, when the laws of any other jurisdiction govern the perfection or enforcement of any Lien, the Uniform Commercial Code of such jurisdiction.

Unfunded Pension Liability: the excess of a Pension Plan's benefit liabilities under Section 4001(a)(16) of ERISA, over the current value of that Pension Plan's assets, determined in accordance with the assumptions used for funding the Pension Plan pursuant to the Code, ERISA or the Pension Protection Act of 2006 for the applicable plan year.

Upstream Payment: a Distribution by a Subsidiary of a Borrower to such Borrower.

Value: (a) for Inventory, its value determined on the basis of the lower of cost or market, calculated on a first-in, first-out basis, and excluding any portion of cost attributable to intercompany profit among Borrowers and their Affiliates; and (b) for an Account, its face amount, net of any returns, rebates, discounts (calculated on the shortest terms), credits, allowances or Taxes (including sales, excise or other taxes) that have been or could be claimed by the Account Debtor or any other Person.

1.2. Accounting Terms. Under the Loan Documents (except as otherwise specified therein), all accounting terms shall be interpreted, all accounting determinations shall be made, and all financial statements shall be prepared, in accordance with GAAP applied on a basis consistent with the most recent audited financial statements of Borrowers delivered to Lender before the Closing Date and using the same inventory valuation method as used in such financial statements, except for any change required or permitted by GAAP if Borrowers' certified public accountants concur in such change, the change is disclosed to Lender, and all relevant provisions of the Loan Documents are amended in a manner satisfactory to Lender to take into account the effects of the change.

1.3. Uniform Commercial Code. As used herein, the following terms are defined in accordance with the UCC in effect in the State of Georgia from time to time: "Chattel Paper," "Commercial Tort Claim," "Deposit Account," "Document," "Equipment," "General Intangibles," "Goods," "Instrument," "Investment Property," "Letter-of-Credit Right" and "Supporting Obligation."

1.4. Certain Matters of Construction. The terms "herein," "hereof," "hereunder" and other words of similar import refer to this Agreement as a whole and not to any particular section, paragraph or subdivision. Any pronoun used shall be deemed to cover all genders. In the computation of periods of time from a specified date to a later specified date, "from" means "from and including," and "to" and "until" each mean "to but excluding." The terms "including" and "include" shall mean "including, without limitation" and, for purposes of each Loan Document, the parties agree that the rule of *ejusdem generis* shall not be applicable to limit any provision. Section titles appear as a matter of convenience only and shall not affect the interpretation of any Loan Document. All references to (a) laws include all related regulations, interpretations, supplements, amendments and successor provisions; (b) any document, instrument or agreement include any amendments, waivers and other modifications, extensions or renewals (to the extent permitted by the Loan Documents); (c) any section mean, unless the context otherwise requires, a section of this Agreement; (d) any exhibits or schedules mean, unless the context otherwise requires, exhibits and schedules attached hereto, which are hereby incorporated by reference; (e) any Person include successors and assigns; (f) time of day mean time of day at Lender's notice address under **Section 12.3.1**; or (g) except where otherwise qualified herein, discretion of Lender mean its sole and absolute discretion. All references to Value, Loan, Obligations and other amounts herein shall be denominated in Dollars, unless expressly provided otherwise, and all determinations (including calculations of financial covenants) made from time to time under the Loan Documents shall be made in light of the circumstances existing at such time. Borrowers shall have the burden of establishing any alleged negligence, misconduct or lack of good faith by Lender under any Loan Documents. No provision of any Loan Documents shall be construed against any party by reason of such party having, or being deemed to have, drafted the provision. Reference to a Borrower's "knowledge" or similar concept means actual knowledge of a Senior Officer, or knowledge that a Senior Officer would have obtained if he or she had engaged in good faith and diligent performance of his or her duties, including reasonably specific inquiries of employees or agents and a good faith attempt to ascertain the matter.

SECTION 2. LOAN

2.1. Loan. Subject to the terms and conditions contained herein, Lender shall make an initial advance of \$6,185,162 of the Loan (the "Initial Advance") to Borrowers by wire transfer in immediately available funds on the Closing Date. Subsequent advances of the Loan in an aggregate amount of up to \$814,838 shall be available to Borrowers after the date hereof ("Subsequent Advances") on the terms and conditions contained in **Section 6.2**. The Loan shall be evidenced by one (1) Secured Promissory Note in the original principal amount of \$7,000,000 dated the Closing Date, executed by Borrowers in favor of Lender (the "Note"). The Loan (including the Initial Advance and any Subsequent Advances) shall be payable in accordance with the terms of the Note and this Agreement.

SECTION 3. INTEREST AND REIMBURSEMENT OBLIGATIONS

3.1. Interest. The Loan shall bear interest as set forth in the Note. Any other Obligations shall bear interest at the highest applicable rate then accruing on the outstanding balance of the Loan.

3.2. Reimbursement Obligations. Borrowers shall pay all Extraordinary Expenses promptly upon request. Borrowers shall also reimburse Lender for all reasonable and documented legal, accounting, appraisal, consulting, and other fees, costs and expenses incurred by it in connection with (a) negotiation and preparation of any Loan Documents, including any amendment or other modification thereof; (b) administration of and actions relating to any Collateral, Loan Documents and transactions contemplated thereby, including any actions taken to perfect or maintain priority of Lender's Liens on any Collateral, to maintain any insurance required hereunder or to verify Collateral; and (c) subject to the limits of **Section 10.1.1(b)**, each inspection, audit or appraisal with respect to any Obligor or Collateral, whether prepared by Lender's personnel or a third party. All legal, accounting and consulting fees shall be charged to Borrowers by Lender's professionals at their full hourly rates, regardless of any alternative fee arrangements that Lender or any of its Affiliates may have with such professionals that otherwise might apply to this or any other transaction. Borrowers acknowledge that counsel may provide Lender with a benefit (such as a discount, credit or accommodation for other matters) based on counsel's overall relationship with Lender, including fees paid hereunder. All amounts payable by Borrowers under this Section shall be due **on demand**.

3.3. **Maximum Interest.** Notwithstanding anything to the contrary contained in any Loan Document, the interest paid or agreed to be paid under the Loan Documents shall not exceed the maximum rate of non-usurious interest permitted by Applicable Law ("maximum rate"). If Lender shall receive interest in an amount that exceeds the maximum rate, the excess interest shall be applied to the principal of the Obligations or, if it exceeds such unpaid principal, refunded to Borrowers. In determining whether the interest contracted for, charged or received by Lender exceeds the maximum rate, Lender may, to the extent permitted by Applicable Law, (a) characterize any payment that is not principal as an expense, fee or premium rather than interest; (b) exclude voluntary prepayments and the effects thereof; and (c) amortize, prorate, allocate and spread in equal or unequal parts the total amount of interest throughout the contemplated term of the Obligations hereunder.

SECTION 4. LOAN ADMINISTRATION

4.1. **Borrower Agent.** Each Borrower hereby designates Marquis ("Borrower Agent") as its representative and agent for all purposes under the Loan Documents, including delivery or receipt of communications, delivery of financial information and reports, payment of Obligations, requests for waivers, amendments or other accommodations, actions under the Loan Documents (including in respect of compliance with covenants), and all other dealings with Lender. Borrower Agent hereby accepts such appointment. Lender shall be entitled to rely upon, and shall be fully protected in relying upon, any notice or communication delivered by Borrower Agent on behalf of any Borrower. Lender may give any notice or communication with a Borrower hereunder to Borrower Agent on behalf of such Borrower. Lender shall have the right, in its discretion, to deal exclusively with Borrower Agent for all purposes under the Loan Documents. Each Borrower agrees that any notice, election, communication, delivery, representation, agreement, action or undertaking on its behalf by Borrower Agent shall be binding upon and enforceable against it.

4.2. **One Obligation.** The Loan and other Obligations shall constitute one general obligation of Borrowers and are secured by Lender's Lien on all Collateral; provided, however, that Lender shall be deemed to be a creditor of, and the holder of a separate claim against, each Borrower to the extent of any Obligations jointly or severally owed by such Borrower.

4.3. **Effect of Termination.** On the Maturity Date, the Obligations shall be immediately due and payable. Until Full Payment of the Obligations, all undertakings of Borrowers contained in the Loan Documents shall continue, and Lender shall retain its Liens in the Collateral and all of its rights and remedies under the Loan Documents. Lender shall not be required to terminate its Liens unless it receives Cash Collateral or a written agreement, in each case reasonably satisfactory to it, protecting it from dishonor or return of any Payment Item previously applied to the Obligations. **Sections 3.2, 5.4, 5.6, 12.2**, this Section, and each indemnity or waiver given by an Obligor in any Loan Document, shall survive Full Payment of the Obligations.

SECTION 5. PAYMENTS

5.1. **General Payment Provisions.** All payments of Obligations shall be made in Dollars, without offset, counterclaim or defense of any kind, free and clear of (and without deduction for) any Taxes, and in immediately available funds, on the due date. Borrowers agree that Lender shall have the continuing, exclusive right to apply and reapply payments and proceeds of Collateral against Obligations, in such manner as Lender deems advisable, subject to the Debt and Lien Subordination Agreement.

5.2. **Repayment of Loan.**

5.2.1. Payment of Principal. The Loan shall be repaid on the terms set forth in the Note. Once repaid, whether such repayment is voluntary or required, no portion of the Loan may be reborrowed.

5.2.2. Mandatory Prepayments. Subject to the Debt and Lien Subordination Agreement:

(a) Concurrently with any Permitted Asset Disposition of Equipment or Real Estate, Borrowers shall prepay the Loan in an amount equal to the Net Proceeds of such disposition;

(b) Concurrently with the receipt of any proceeds of insurance or condemnation awards paid in respect of any Equipment or Real Estate, Borrowers shall prepay the Loan in an amount equal to such proceeds, subject to **Section 8.1.2**;

(c) Concurrently with any issuance of Equity Interests by a Borrower, Borrowers shall prepay the Loan in an amount equal to the net proceeds of such issuance; and

(d) On the Maturity Date, Borrowers shall prepay the entire Loan (unless sooner repaid hereunder).

5.2.3. Optional Prepayments. Subject to the Debt and Lien Subordination Agreement, Borrowers may, at their option from time to time, prepay the Loan. Borrowers shall give written notice to Lender of an intended prepayment of the Loan, which notice shall specify the amount of the prepayment, shall be irrevocable once given, shall be given at least two Business Days in advance of the prepayment.

5.2.4. Interest; Application of Prepayments. Each prepayment of the Loan shall be accompanied by all interest accrued thereon, and shall be applied to principal in inverse order of maturity.

5.3. Payment of Other Obligations. Subject to the Debt and Lien Subordination Agreement, Obligations other than the Loan, including Extraordinary Expenses, shall be paid by Borrowers as provided in the Loan Documents or, if no payment date is specified, **on demand**.

5.4. Marshaling; Payments Set Aside. Lender shall have no obligation to marshal any assets in favor of any Obligor or against any Obligations. If any payment by or on behalf of Borrowers is made to Lender or if Lender exercises a right of setoff, and any of such payment or setoff is subsequently invalidated, declared to be fraudulent or preferential, set aside or required (including pursuant to any settlement entered into by Lender in its discretion) to be repaid to a trustee, receiver or any other Person, then the Obligation originally intended to be satisfied, and all Liens, rights and remedies relating thereto, shall be revived and continued in full force and effect as if such payment or setoff had not occurred.

5.5. Account Stated. Lender shall maintain a loan accounts evidencing the Debt of Borrowers hereunder. Any failure of Lender to record anything in the loan account, or any error in doing so, shall not limit or otherwise affect the obligation of Borrowers to pay any amount owing hereunder. Entries made in the loan account shall constitute presumptive evidence of the information contained therein. If any information contained in the loan account is provided to or inspected by any Person, the information shall be conclusive and binding on such Person for all purposes absent manifest error, except to the extent such Person notifies Lender in writing within 30 days after receipt or inspection that specific information is subject to dispute.

5.6. Taxes

5.6.1. Payments Free of Taxes; Obligation to Withhold; Tax Payment.

(a) All payments of Obligations by Obligors shall be made without deduction or withholding for any Taxes, except as required by Applicable Law. If Applicable Law (as determined by Lender in its discretion) requires the deduction or withholding of any Tax from any such payment by a Recipient or Obligor, then the Recipient or Obligor shall be entitled to make such deduction or withholding based on information and documentation provided pursuant to this Section.

(b) If a Recipient or Obligor is required by the Code to withhold or deduct Taxes, including backup withholding and withholding taxes, from any payment, then the Recipient shall pay the full amount that it determines is to be withheld or deducted to the relevant Governmental Authority pursuant to the Code. If a Recipient or Obligor is required by any Applicable Law other than the Code to withhold or deduct Taxes from any payment, then the Recipient or Obligor, to the extent required by Applicable Law, shall timely pay the full amount to be withheld or deducted to the relevant Governmental Authority. In each case, to the extent the withholding or deduction is made on account of Indemnified Taxes, the sum payable by the applicable Obligor shall be increased as necessary so that the Recipient receives an amount equal to the sum it would have received had no such withholding or deduction been made.

(c) Without limiting the foregoing, Borrowers shall timely pay all Other Taxes to the relevant Governmental Authority in accordance with Applicable Law or, at Lender's option, timely reimburse Lender for payment thereof.

5.6.2. Tax Indemnification. Borrowers shall indemnify and hold harmless, on a joint and several basis, each Recipient against any Indemnified Taxes (including those imposed or asserted on or attributable to amounts payable under this Section) payable or paid by a Recipient or required to be withheld or deducted from a payment to a Recipient, and any penalties, interest and reasonable expenses arising therefrom or with respect thereto, whether or not such Indemnified Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. Borrowers shall make payment within 10 days after demand for any amount or liability payable under this Section. A certificate delivered to Borrowers by Lender (for itself or on behalf of a Recipient) as to the amount of such payment or liability, shall be conclusive absent manifest error.

5.6.3. Evidence of Payments. If Lender or an Obligor pays any Taxes pursuant to this Section, then upon request, Lender or Borrower Agent, as applicable, shall deliver to the other a copy of a receipt issued by the appropriate Governmental Authority evidencing the payment, a copy of any return required by Applicable Law to report the payment, or other evidence of payment reasonably satisfactory to the requesting party.

5.6.4. Treatment of Certain Refunds. If Lender determines in its discretion that it or another Recipient has received a refund of any Taxes that were indemnified by Borrowers or with respect to which a Borrower paid additional amounts pursuant to this Section, Lender shall pay or shall cause the other Recipient to pay to Borrowers the amount of such refund (but only to the extent of indemnity payments made, or additional amounts paid, by Borrowers with respect to the Taxes giving rise to the refund), net of all out-of-pocket expenses (including Taxes) incurred by the Recipient and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund). Borrowers shall, upon request by Lender, repay to the Recipient any refund amount so paid over to Borrowers (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) if the Recipient is required to repay such refund to the Governmental Authority. Notwithstanding anything herein to the contrary, no Recipient shall be required to pay any amount to Borrowers if such payment would place the Recipient in a less favorable net after-Tax position than it would have been in if the Tax subject to indemnification and giving rise to such refund had not been deducted, withheld or otherwise imposed and the indemnification payments or additional amounts with respect to such Tax had never been paid. In no event shall any Recipient be required to make its tax returns (or any other information relating to its taxes that it deems confidential) available to any Obligor or other Person.

5.6.5. Status of Lender. If Lender is entitled to an exemption from or reduction of withholding Tax with respect to payments of Obligations, it shall deliver to Borrowers properly completed and executed documentation reasonably requested by Borrowers as will permit such payments to be made without or at a reduced rate of withholding. In addition, Lender, if reasonably requested by Borrowers, shall deliver such other documentation prescribed by Applicable Law as is necessary to enable Borrowers to determine whether Lender is subject to backup withholding or information reporting requirements. Notwithstanding the foregoing, such documentation shall not be required if Lender believes delivery of the documentation would subject it to any material unreimbursed cost or expense or would materially prejudice its legal or commercial position.

5.6.6. Documentation. Without limiting the foregoing, Lender shall deliver to Borrowers, from time to time upon reasonable request, executed originals of IRS Form W-9 or W-8BEN, certifying that Lender is exempt from U.S. federal backup withholding Tax. If payment of any Obligation to Lender would be subject to U.S. federal withholding Tax imposed by FATCA if Lender were to fail to comply with the applicable reporting requirements of FATCA (including those contained in Section 1471(b) or 1472(b) of the Code), Lender shall deliver to Borrowers at the time(s) prescribed by law and otherwise as reasonably requested by Borrowers such documentation prescribed by Applicable Law (including Section 1471(b)(3)(C)(i) of the Code) and such additional documentation reasonably requested by Borrowers as may be necessary for them to comply with their obligations under FATCA and to determine that Lender has complied with its obligations under FATCA or to determine the amount to deduct and withhold from such payment. Solely for purposes of the preceding sentence, "FATCA" shall include any amendments made to FATCA after the date hereof. If any form or certification delivered by Lender pursuant to this Section expires or becomes obsolete or inaccurate in any respect, Lender shall update the form or certification or notify Borrowers in writing of its inability to do so.

5.6.7. Survival. Each party's obligations under this **Section 5.6** shall survive any assignment by Lender of rights or obligations hereunder, the Maturity Date, and any repayment, satisfaction, discharge or Full Payment of any Obligations.

5.7. Nature and Extent of Each Borrower's Liability.

5.7.1. Joint and Several Liability. Each Borrower agrees that it is jointly and severally liable for, and absolutely and unconditionally guarantees to Lender the prompt payment and performance of, all Obligations, except its Excluded Swap Obligations. Each Borrower agrees that its guaranty obligations hereunder constitute a continuing guaranty of payment and performance and not of collection, that such obligations shall not be discharged until Full Payment of the Obligations, and that such obligations are absolute and unconditional, irrespective of (a) the genuineness, validity, regularity, enforceability, subordination or any future modification of, or change in, any Obligations or Loan Document, or any other document, instrument or agreement to which any Obligor is or may become a party or be bound; (b) the absence of any action to enforce this Agreement (including this Section) or any other Loan Document, or any waiver, consent or indulgence of any kind by Lender with respect thereto; (c) the existence, value or condition of, or failure to perfect a Lien or to preserve rights against, any security or guaranty for any Obligations or any action, or the absence of any action, by Lender in respect thereof (including the release of any security or guaranty); (d) the insolvency of any Obligor; (e) any election by Lender in an Insolvency Proceeding for the application of Section 1111(b)(2) of the Bankruptcy Code; (f) any borrowing or grant of a Lien by any other Borrower, as debtor-in-possession under Section 364 of the Bankruptcy Code or otherwise; (g) the disallowance of any claims of Lender against any Obligor for the repayment of any Obligations under Section 502 of the Bankruptcy Code or otherwise; or (h) any other action or circumstances that might otherwise constitute a legal or equitable discharge or defense of a surety or guarantor, except Full Payment of the Obligations.

5.7.2. Waivers.

(a) Each Borrower expressly waives all rights that it may have now or in the future under any statute, at common law, in equity or otherwise, to compel Lender to marshal assets or to proceed against any Obligor, other Person or security for the payment or performance of any Obligations before, or as a condition to, proceeding against such Borrower. Each Borrower waives all defenses available to a surety, guarantor or accommodation co-obligor other than Full Payment of Obligations and waives, to the maximum extent permitted by law, any right to revoke any guaranty of Obligations as long as it is a Borrower. It is agreed among each Borrower and Lender that the provisions of this **Section 5.7** are of the essence of the transaction contemplated by the Loan Documents and that, but for such provisions, Lender would decline to make the Loan. Each Borrower acknowledges that its guaranty pursuant to this Section is necessary to the conduct and promotion of its business, and can be expected to benefit such business.

(b) Lender may, in its discretion, pursue such rights and remedies as it deems appropriate, including realization upon Collateral or any Real Estate by judicial foreclosure or nonjudicial sale or enforcement, without affecting any rights and remedies under this **Section 5.7**. If, in taking any action in connection with the exercise of any rights or remedies, Lender shall forfeit any other rights or remedies, including the right to enter a deficiency judgment against any Borrower or other Person, whether because of any Applicable Laws pertaining to "election of remedies" or otherwise, each Borrower consents to such action and waives any claim based upon it, even if the action may result in loss of any rights of subrogation that any Borrower might otherwise have had. Any election of remedies that results in denial or impairment of the right of Lender to seek a deficiency judgment against any Borrower shall not impair any other Borrower's obligation to pay the full amount of the Obligations. Each Borrower waives all rights and defenses arising out of an election of remedies, such as nonjudicial foreclosure with respect to any security for Obligations, even though that election of remedies destroys such Borrower's rights of subrogation against any other Person. Lender may bid Obligations, in whole or part, at any foreclosure, trustee or other sale, including any private sale, and the amount of such bid need not be paid by Lender but shall be credited against the Obligations. The amount of the successful bid at any such sale, whether Lender or any other Person is the successful bidder, shall be conclusively deemed to be the fair market value of the Collateral, and the difference between such bid amount and the remaining balance of the Obligations shall be conclusively deemed to be the amount of the Obligations guaranteed under this **Section 5.7**, notwithstanding that any present or future law or court decision may have the effect of reducing the amount of any deficiency claim to which Lender might otherwise be entitled but for such bidding at any such sale.

5.7.3. Extent of Liability; Contribution.

(a) Notwithstanding anything herein to the contrary, each Borrower's liability under this **Section 5.7** shall not exceed the greater of (i) all amounts for which such Borrower is primarily liable, as described in clause (c) below, and (ii) such Borrower's Allocable Amount.

(b) If any Borrower makes a payment under this **Section 5.7** of any Obligations (other than amounts for which such Borrower is primarily liable) (a "Guarantor Payment") that, taking into account all other Guarantor Payments previously or concurrently made by any other Borrower, exceeds the amount that such Borrower would otherwise have paid if each Borrower had paid the aggregate Obligations satisfied by such Guarantor Payments in the same proportion that such Borrower's Allocable Amount bore to the total Allocable Amounts of all Borrowers, then such Borrower shall be entitled to receive contribution and indemnification payments from, and to be reimbursed by, each other Borrower for the amount of such excess, ratably based on their respective Allocable Amounts in effect immediately prior to such Guarantor Payment. The "Allocable Amount" for any Borrower shall be the maximum amount that could then be recovered from such Borrower under this **Section 5.7** without rendering such payment voidable under Section 548 of the Bankruptcy Code or under any applicable state fraudulent transfer or conveyance act, or similar statute or common law.

(c) **Section 5.7.3(a)** shall not limit the liability of any Borrower to pay or guarantee the Loan made directly or indirectly to it (including any portion of the Loan advanced hereunder to any other Person and then re-loaned or otherwise transferred to, or for the benefit of, such Borrower) and all accrued interest, fees, expenses and other related Obligations with respect thereto, for which such Borrower shall be primarily liable for all purposes hereunder.

(d) Each Obligor that is a Qualified ECP when its guaranty of or grant of Lien as security for a Swap Obligation becomes effective hereby jointly and severally, absolutely, unconditionally and irrevocably undertakes to provide such funds or other support to each Specified Obligor with respect to such Swap Obligation as may be needed by such Specified Obligor from time to time to honor all of its obligations under the Loan Documents in respect of such Swap Obligation (but, in each case, only up to the maximum amount of such liability that can be hereby incurred without rendering such Qualified ECP's obligations and undertakings under this **Section 5.7** voidable under any applicable fraudulent transfer or conveyance act). The obligations and undertakings of each Qualified ECP under this Section shall remain in full force and effect until Full Payment of all Obligations. Each Obligor intends this Section to constitute, and this Section shall be deemed to constitute, a guarantee of the obligations of, and a "keepwell, support or other agreement" for the benefit of, each Obligor for all purposes of the Commodity Exchange Act.

5.7.4. **Joint Enterprise.** Each Borrower has requested that Lender make the Loan available to Borrowers on a combined basis, in order to finance Borrowers' business most efficiently and economically. Borrowers' business is a mutual and collective enterprise, and the successful operation of each Borrower is dependent upon the successful performance of the integrated group. Borrowers believe that consolidation of the Loan will enhance the borrowing power of each Borrower and ease administration of the Loan, all to their mutual advantage. Borrowers acknowledge that Lender's willingness to extend credit and to administer the Collateral on a combined basis hereunder is done solely as an accommodation to Borrowers and at Borrowers' request.

5.7.5. **Subordination.** Each Borrower hereby subordinates any claims, including any rights at law or in equity to payment, subrogation, reimbursement, exoneration, contribution, indemnification or set off, that it may have at any time against any other Obligor, howsoever arising, to the Full Payment of its Obligations.

SECTION 6. CONDITIONS PRECEDENT

6.1. Conditions Precedent to the Initial Advance. Lender shall not be required to fund the Initial Advance until the date ("**Closing Date**") that each of the following conditions has been satisfied:

(a) Each Loan Document shall have been duly executed and delivered to Lender by each of the signatories thereto, and each Obligor shall be in compliance with all terms thereof.

(b) Lender shall have received acknowledgments of all filings or recordings necessary to perfect its Liens in the Collateral, as well as UCC and Lien searches and other evidence satisfactory to Lender that such Liens are the only Liens upon the Collateral, except Permitted Liens.

(c) Lender shall have received the Related Real Estate Documents for all Real Estate subject to a Mortgage.

(d) Lender shall have received certificates, in form and substance satisfactory to it, from a knowledgeable Senior Officer of Borrower Agent certifying that, after giving effect to the Loan and transactions hereunder as well as all of the transactions contemplated under the Marquis SPA Documents and the Senior Debt Documents, (i) such Borrower is Solvent; (ii) no Default or Event of Default exists; (iii) the representations and warranties set forth in **Section 9** are true and correct; and (iv) such Borrower has complied with all agreements and conditions to be satisfied by it under the Loan Documents.

(f) Lender shall have received a certificate of a duly authorized officer of each Obligor, certifying (i) that attached copies of such Obligor's Organic Documents are true and complete, and in full force and effect, without amendment except as shown; (ii) that an attached copy of resolutions authorizing execution and delivery of the Loan Documents is true and complete, and that such resolutions are in full force and effect, were duly adopted, have not been amended, modified or revoked, and constitute all resolutions adopted with respect to this credit facility; and (iii) to the title, name and signature of each Person authorized to sign the Loan Documents. Lender may conclusively rely on this certificate until it is otherwise notified by the applicable Obligor in writing.

(g) Lender shall have received copies of the charter documents of each Obligor, certified by the Secretary of State or other appropriate official of such Obligor's jurisdiction of organization. Lender shall have received good standing certificates for each Obligor, issued by the Secretary of State or other appropriate official of such Obligor's jurisdiction of organization and each jurisdiction where such Obligor's conduct of business or ownership of Property necessitates qualification.

(h) Lender shall have received copies of policies or certificates of insurance for the insurance policies carried by Borrowers, all in compliance with the Loan Documents.

(i) Lender shall have completed its business, financial and legal due diligence of Obligors, in each case with results satisfactory to Lender. No material adverse change in the financial condition of any Obligor or in the quality, quantity or value of any Collateral shall have occurred since January 3, 2015.

(j) Borrowers shall have paid all fees and expenses to be paid to Lender on the Closing Date.

(k) Borrowers shall have obtained consents and approvals from all Governmental Authorities and other third parties that are required by the Marquis SPA.

(l) All conditions precedent to the effectiveness of the Marquis SPA shall have been satisfied (and not waived unless Lender shall have approved such waiver in its discretion) and the Marquis Acquisition shall have been consummated on terms and subject to legal documentation acceptable to Lender in its discretion.

(n) Lender shall have received copies of the fully-executed Marquis SPA and the Marquis SPA Documents.

(m) All conditions precedent to the effectiveness of the Equity Contribution Documents shall have been satisfied (and not waived unless Lender shall have approved such waiver in its discretion) and the Equity Contribution shall have been consummated on terms and subject to legal documentation acceptable to Lender in its discretion.

(o) The transactions contemplated by the Senior Debt Documents shall have been consummated on terms and subject to legal documentation acceptable to Lender in its discretion.

(p) Lender shall have received copies of the fully-executed Equity Contribution Documents and the Senior Debt Documents.

(q) Lender shall have received (i) interim financial statements for Borrowers as of May 30, 2015, (ii) projections of Borrower's consolidated balance sheets, results of operations, and cash flow for Fiscal Year 2015, month by month and (iii) all other financial and business information reasonably requested by Lender.

(r) Lender shall be satisfied with all aspects of Obligors' corporate, capital and ownership structure and indebtedness.

(s) Lender shall have completed all due diligence required for compliance with Applicable Law.

6.2. Conditions Precedent to Subsequent Advance. Lender shall not be required to fund any Subsequent Advance unless the following conditions are satisfied:

- (a) No Default or Event of Default shall exist at the time of, or result from, such funding;
- (b) The representations and warranties of each Obligor in the Loan Documents shall be true and correct on the date of, and upon giving effect to, such funding (except for representations and warranties that expressly relate to an earlier date);
- (c) All conditions precedent in any other Loan Document shall be satisfied; and
- (d) No event shall have occurred or circumstance exist that has or could reasonably be expected to have a Material Adverse Effect.

SECTION 7. COLLATERAL

7.1. Grant of Security Interest. To secure the prompt payment and performance of its Obligations, each Borrower hereby grants to Lender a continuing security interest in and Lien upon all Property of such Borrower, including all of the following Property, whether now owned or hereafter acquired, and wherever located:

- (a) all Accounts;
- (b) all Chattel Paper, including electronic chattel paper;
- (c) all Commercial Tort Claims, including those shown on **Schedule 9.1.15**;
- (d) all Deposit Accounts;
- (e) all Documents;
- (f) all General Intangibles, including Intellectual Property;
- (g) all Goods, including Inventory, Equipment and fixtures;
- (h) all Instruments;
- (i) all Investment Property;
- (j) all Letter-of-Credit Rights;
- (k) all Supporting Obligations;
- (l) all monies, whether or not in the possession or under the control of Lender, or a bailee or Affiliate of Lender, including any Cash Collateral;
- (m) all accessions to, substitutions for, and all replacements, products, and cash and non-cash proceeds of the foregoing, including proceeds of and unearned premiums with respect to insurance policies, and claims against any Person for loss, damage or destruction of any Collateral; and
- (n) all books and records (including customer lists, files, correspondence, tapes, computer programs, print-outs and computer records) pertaining to the foregoing.

Notwithstanding anything to the contrary contained herein, in no event shall Excluded Assets constitute Collateral under this Agreement or any other Loan Document.

7.2. Lien on Deposit Accounts; Cash Collateral.

7.2.1. Deposit Accounts. To further secure the prompt payment and performance of its Obligations, each Borrower hereby grants to Lender a continuing security interest in and Lien upon all amounts credited to any Deposit Account of such Borrower.

7.2.2. Cash Collateral. Cash Collateral may be invested, at Lender's discretion (and with the consent of Borrowers, as long as no Event of Default exists), but Lender shall have no duty to do so, regardless of any agreement or course of dealing with any Borrower, and shall have no responsibility for any investment or loss. As security for its Obligations, each Borrower hereby grants to Lender a security interest in and Lien upon all Cash Collateral held from time to time and all proceeds thereof. Lender may apply Cash Collateral to the payment of Obligations as they become due, in such order as Lender may elect. All Cash Collateral shall be under the sole dominion and control of Lender, and no Borrower or other Person shall have any right to any Cash Collateral, until Full Payment of the Obligations.

7.3. Real Estate Collateral.

7.3.1. Lien on Real Estate. The Obligations shall also be secured by Mortgages upon all Real Estate owned by Borrowers, including the Real Estate located at (a) 2743 Highway 76, Chatsworth, Georgia 30705, (b) 325 Smyrna Church Road, Chatsworth, Georgia 30705, (c) 242 Treadwell Road, Chatsworth, Georgia 30705, (d) 1978 Highway 52 Alt., Chatsworth, Georgia 30705, (e) 1642 Duval Road, Chatsworth, Georgia 30705, (f) 1805 South Hamilton, Dalton, Georgia 30720, and (g) 2669 Lakeland Road, Dalton, Georgia 30720. The Mortgages shall be duly recorded, at Borrowers' expense, in each office where such recording is required to constitute a fully perfected Lien on the Real Estate covered thereby. If any Borrower acquires Real Estate hereafter, Borrowers shall, within 30 days, execute, deliver and record a Mortgage sufficient to create a first priority Lien in favor of Lender on such Real Estate, and shall deliver all Related Real Estate Documents.

7.3.2. Collateral Assignment of Leases. To further secure the prompt payment and performance of its Obligations, each Borrower hereby transfers and assigns to Lender all of such Borrower's right, title and interest in, to and under all now or hereafter existing leases of real Property to which such Borrower is a party, whether as lessor or lessee, and all extensions, renewals, modifications and proceeds thereof.

7.4. Other Collateral.

7.4.1. Commercial Tort Claims. Borrowers shall promptly notify Lender in writing if any Borrower has a Commercial Tort Claim (other than, as long as no Default or Event of Default exists, a Commercial Tort Claim for less than \$125,000), shall promptly amend **Schedule 9.1.15** to include such claim, and shall take such actions as Lender deems appropriate to subject such claim to a duly perfected, first priority Lien in favor of Lender.

7.4.2. Certain After-Acquired Collateral. Borrowers shall promptly notify Lender in writing if, after the Closing Date, any Borrower obtains any interest in any Collateral consisting of Deposit Accounts, Chattel Paper, Documents, Instruments, Intellectual Property, Investment Property or Letter-of-Credit Rights with a face amount or representing Property having a value in excess of \$125,000 and, upon Lender's request, shall promptly take such actions as Lender deems appropriate to effect Lender's duly perfected, second priority Lien upon such Collateral, including obtaining any appropriate possession, control agreement or Lien Waiver. If any Collateral is in the possession of a third party, at Lender's request, Borrowers shall use commercially reasonable efforts to obtain an acknowledgment that such third party holds the Collateral for the benefit of Lender.

7.5. **Limitations.** The Lien on Collateral granted hereunder is given as security only and shall not subject Lender to, or in any way modify, any obligation or liability of Borrowers relating to any Collateral. In no event shall the grant of any Lien under any Loan Document secure an Excluded Swap Obligation of the granting Obligor.

7.6. **Further Assurances; Extent of Liens.** All Liens granted to Lender under the Loan Documents are for the benefit of Lender. Promptly upon request, Borrowers shall deliver such instruments and agreements, and shall take such actions, as Lender deems appropriate under Applicable Law to evidence or perfect its Lien on any Collateral, or otherwise to give effect to the intent of this Agreement. Each Borrower authorizes Lender to file any financing statement that describes the Collateral as "all assets" or "all personal property" of such Borrower, or words to similar effect, and ratifies any action taken by Lender before the Closing Date to effect or perfect its Lien on any Collateral.

7.7. **Foreign Subsidiary Stock.** Notwithstanding Section 7.1, the Collateral shall include only 65% of the voting stock of any Foreign Subsidiary.

SECTION 8. COLLATERAL ADMINISTRATION

8.1. General Provisions.

8.1.1. **Location of Collateral.** All tangible items of Collateral, other than Inventory in transit, shall at all times be kept by Borrowers at the business locations set forth in **Schedule 8.1.1**, except that Borrowers may (a) make sales or other dispositions of Collateral in accordance with **Section 10.2.6**; and (b) move Collateral to another location in the United States, upon 30 Business Days prior written notice to Lender.

8.1.2. **Insurance of Collateral; Condemnation Proceeds.** Subject to the Debt and Lien Subordination Agreement:

(a) Each Borrower shall maintain insurance with respect to the Collateral, covering casualty, hazard, theft, malicious mischief, flood and other risks, in amounts, with endorsements and with insurers (with a Best Rating of at least A, unless otherwise approved by Lender in its discretion) satisfactory to Lender. All proceeds under each policy shall be payable to Lender. From time to time upon request, Borrowers shall deliver to Lender the originals or certified copies of its insurance policies and updated flood plain searches. Unless Lender shall agree otherwise, each policy shall include satisfactory endorsements (i) showing Lender as lender's loss payee; (ii) requiring 30 days prior written notice to Lender in the event of cancellation of the policy for any reason whatsoever; and (iii) specifying that the interest of Lender shall not be impaired or invalidated by any act or neglect of any Borrower or the owner of the Property, nor by the occupation of the premises for purposes more hazardous than are permitted by the policy. If any Borrower fails to provide and pay for any insurance, Lender may, at its option, but shall not be required to, procure the insurance and charge Borrowers therefor. Each Borrower agrees to deliver to Lender, promptly as rendered, copies of all reports made to insurance companies. While no Event of Default exists, Borrowers may settle, adjust or compromise any insurance claim, as long as the proceeds are delivered to Lender. If an Event of Default exists, only Lender shall be authorized to settle, adjust and compromise such claims.

(b) Any proceeds of insurance (other than proceeds from workers' compensation or D&O insurance) and any awards arising from condemnation of any Collateral shall be paid to Lender and applied first to payment of the Loan and then to other Obligations.

(c) If requested by Borrowers in writing within 30 days after Lender's receipt of any insurance proceeds or condemnation awards relating to any loss or destruction of Equipment or Real Estate, Borrowers may use such proceeds or awards to repair or replace such Equipment or Real Estate (and until so used, the proceeds shall be held by Lender as Cash Collateral) as long as (i) no Default or Event of Default exists; (ii) such repair or replacement is promptly undertaken and concluded, in accordance with plans reasonably satisfactory to Lender; (iii) replacement buildings are constructed on the sites of the original casualties and are materially comparable in size, quality and utility to the destroyed buildings; (iv) the repaired or replaced Property is free of Liens, other than Permitted Liens that are not Purchase Money Liens; (v) Borrowers comply with disbursement procedures for such repair or replacement as Lender may reasonably require; and (vi) the aggregate amount of such proceeds or awards requested to be used by Borrowers from any single casualty or condemnation does not exceed \$937,500.

8.1.3. Protection of Collateral. All expenses of protecting, storing, warehousing, insuring, handling, maintaining and shipping any Collateral, all Taxes payable with respect to any Collateral (including any sale thereof), and all other payments required to be made by Lender to any Person to realize upon any Collateral, shall be borne and paid by Borrowers. Lender shall not be liable or responsible in any way for the safekeeping of any Collateral, for any loss or damage thereto (except for reasonable care in its custody while Collateral is in Lender's actual possession), for any diminution in the value thereof, or for any act or default of any warehouseman, carrier, forwarding agency or other Person whatsoever, but the same shall be at Borrowers' sole risk.

8.1.4. Defense of Title. Each Borrower shall take all reasonable actions to defend its title to Collateral and Lender's Liens therein against all Persons, claims and demands, except Permitted Liens.

8.2. Power of Attorney. Each Borrower hereby irrevocably constitutes and appoints Lender (and all Persons designated by Lender) as such Borrower's true and lawful attorney (and agent-in-fact) for the purposes provided in this Section. Lender, or Lender's designee, may, without notice and in either its or a Borrower's name, but at the cost and expense of Borrowers and subject to the Debt and Lien Subordination Agreement:

(a) Endorse a Borrower's name on any Payment Item or other proceeds of Collateral (including proceeds of insurance) that come into Lender's possession or control; and

(b) During an Event of Default, (i) notify any Account Debtors of the assignment of their Accounts, demand and enforce payment of Accounts, by legal proceedings or otherwise, and generally exercise any rights and remedies with respect to Accounts; (ii) settle, adjust, modify, compromise, discharge or release any Accounts or other Collateral, or any legal proceedings brought to collect Accounts or Collateral; (iii) sell or assign any Accounts and other Collateral upon such terms, for such amounts and at such times as Lender deems advisable; (iv) collect, liquidate and receive balances in Deposit Accounts or investment accounts, and take control, in any manner, of proceeds of Collateral; (v) prepare, file and sign a Borrower's name to a proof of claim or other document in a bankruptcy of an Account Debtor, or to any notice, assignment or satisfaction of Lien or similar document; (vi) receive, open and dispose of mail addressed to a Borrower, and notify postal authorities to deliver any such mail to an address designated by Lender; (vii) endorse any Chattel Paper, Document, Instrument, bill of lading, or other document or agreement relating to any Accounts, Inventory or other Collateral; (viii) use a Borrower's stationery and sign its name to verifications of Accounts and notices to Account Debtors; (ix) use information contained in any data processing, electronic or information systems relating to Collateral; (x) make and adjust claims under insurance policies; (xi) take any action as may be necessary or appropriate to obtain payment under any letter of credit, banker's acceptance or other instrument for which a Borrower is a beneficiary; and (xii) take all other actions as Lender deems appropriate to fulfill any Borrower's obligations under the Loan Documents.

SECTION 9. REPRESENTATIONS AND WARRANTIES

9.1. General Representations and Warranties. To induce Lender to enter into this Agreement and to make the Loan, each Borrower represents and warrants that:

9.1.1. Organization and Qualification. Each Borrower and Subsidiary is duly organized, validly existing and in good standing under the laws of the jurisdiction of its organization. Each Borrower and Subsidiary is duly qualified, authorized to do business and in good standing as a foreign corporation in each jurisdiction where failure to be so qualified could reasonably be expected to have a Material Adverse Effect.

9.1.2. Power and Authority. Each Obligor is duly authorized to execute, deliver and perform the Loan Documents to which it is a party. The execution, delivery and performance of the Loan Documents have been duly authorized by all necessary action, and do not (a) require any consent or approval of any holders of Equity Interests of any Obligor, except those already obtained; (b) contravene the Organic Documents of any Obligor; (c) violate or cause a default under any Applicable Law or Material Contract; or (d) result in or require the imposition of a Lien (other than Permitted Liens) on any Obligor's Property.

9.1.3. Enforceability. Each Loan Document is a legal, valid and binding obligation of each Obligor party thereto, enforceable in accordance with its terms, except as enforceability may be limited by bankruptcy, insolvency or similar laws affecting the enforcement of creditors' rights generally.

9.1.4. Capital Structure. **Schedule 9.1.4** shows, for each Borrower and Subsidiary, its name, jurisdiction of organization, authorized and issued Equity Interests, holders of its Equity Interests, and agreements binding on such holders with respect to such Equity Interests. Except as disclosed on **Schedule 9.1.4**, in the five years preceding the Closing Date, no Borrower or Subsidiary has acquired any substantial assets from any other Person nor been the surviving entity in a merger or combination. Each Borrower has good title to its Equity Interests in its Subsidiaries, subject only to (a) Lender's Lien and (b) to the extent subject to the Debt and Lien Subordination Agreement, the Permitted Lien in favor of the Senior Lender, and all such Equity Interests are duly issued, fully paid and non-assessable. Except as set forth on **Schedule 9.1.4**, there are no outstanding purchase options, warrants, subscription rights, agreements to issue or sell, convertible interests, phantom rights or powers of attorney relating to Equity Interests of any Borrower or Subsidiary.

9.1.5. Title to Properties; Priority of Liens. Each Borrower and Subsidiary has good and marketable title to (or valid leasehold interests in) all of its Real Estate, and good title to all of its personal Property, including all Property reflected in any financial statements delivered to Lender, in each case free of Liens except Permitted Liens. Each Borrower and Subsidiary has paid and discharged all lawful claims that, if unpaid, could become a Lien on its Properties, other than Permitted Liens. All Liens of Lender in the Collateral are duly perfected, second priority Liens, subject only to Permitted Liens that are expressly allowed to have priority over Lender's Liens.

9.1.6. Financial Statements. The consolidated and consolidating balance sheets, and related statements of income, cash flow and shareholders equity, of Borrowers and Subsidiaries that have been and are hereafter delivered to Lender, are prepared in accordance with GAAP, and fairly present in all material respects the financial positions and results of operations of Borrowers and Subsidiaries at the dates and for the periods indicated. All projections delivered from time to time to Lender have been prepared in good faith, based on reasonable assumptions in light of the circumstances at such time. Since January 3, 2015, there has been no change in the condition, financial or otherwise, of any Borrower or Subsidiary that could reasonably be expected to have a Material Adverse Effect. No financial statement delivered to Lender at any time contains any untrue statement of a material fact, nor fails to disclose any material fact necessary to make such statement not materially misleading. Each Borrower and Subsidiary is Solvent.

9.1.7. Surety Obligations. No Borrower or Subsidiary is obligated as surety or indemnitor under any bond or other contract that assures payment or performance of any obligation of any Person, except as permitted hereunder.

9.1.8. Taxes. Each Borrower and Subsidiary has filed all federal, state and local tax returns and other reports that it is required by law to file (except where on extension authorized by Applicable Law), and has paid, or made provision for the payment of, all Taxes upon it, its income and its Properties that are due and payable, except to the extent being Properly Contested. The provision for Taxes on the books of each Borrower and Subsidiary is adequate for all years not closed by applicable statutes, and for its current Fiscal Year.

9.1.9. Brokers. Except as set forth on **Schedule 9.1.9**, there are no brokerage commissions, finder's fees or investment banking fees payable in connection with any transactions contemplated by the Loan Documents.

9.1.10. Intellectual Property. Each Borrower and Subsidiary owns or has the lawful right to use all material Intellectual Property necessary for the conduct of its business, without conflict with any rights of others. There is no pending or, to any Borrower's knowledge, threatened Intellectual Property Claim with respect to any Borrower, any Subsidiary or any of their Property (including any Intellectual Property). Except as disclosed on **Schedule 9.1.10**, no Borrower or Subsidiary pays or owes any Royalty or other compensation to any Person with respect to any Intellectual Property. All Intellectual Property (other than off-the-shelf software) owned, used or licensed by, or otherwise subject to any interests of, any Borrower or Subsidiary, as of the Closing Date, is shown on **Schedule 9.1.10**.

9.1.11. Governmental Approvals. Each Borrower and Subsidiary has, is in compliance in all material respects with, and is in good standing with respect to, all Governmental Approvals necessary to conduct its business and to own, lease and operate its Properties. All necessary import, export or other licenses, permits or certificates for the import or handling of any goods or other Collateral have been procured and are in effect, and Borrowers and Subsidiaries have complied with all foreign and domestic laws with respect to the shipment and importation of any goods or Collateral, except where noncompliance could not reasonably be expected to have a Material Adverse Effect.

9.1.12. Compliance with Laws. Each Borrower and Subsidiary has duly complied, and its Properties and business operations are in compliance, in all material respects with all Applicable Law, except where noncompliance could not reasonably be expected to have a Material Adverse Effect. There have been no citations, notices or orders of material noncompliance issued to any Borrower or Subsidiary under any Applicable Law. No Inventory has been produced in violation of the FLSA.

9.1.13. Compliance with Environmental Laws. Except as disclosed on **Schedule 9.1.13**, no Borrower's or Subsidiary's past or present operations, Real Estate or other Properties are subject to any federal, state or local investigation to determine whether any remedial action is needed to address any environmental pollution, hazardous material or environmental clean-up. No Borrower or Subsidiary has received any Environmental Notice. No Borrower or Subsidiary has any contingent liability with respect to any Environmental Release, environmental pollution or hazardous material on any Real Estate now or previously owned, leased or operated by it. The representations and warranties contained in the Environmental Agreement are true and correct on the Closing Date.

9.1.14. Burdensome Contracts. No Borrower or Subsidiary is a party or subject to any contract, agreement or charter restriction that could reasonably be expected to have a Material Adverse Effect. No Borrower or Subsidiary is party or subject to any Restrictive Agreement, except as shown on **Schedule 9.1.14**. No such Restrictive Agreement prohibits the execution, delivery or performance of any Loan Document by an Obligor.

9.1.15. Litigation. Except as shown on **Schedule 9.1.15**, there are no proceedings or investigations pending or, to any Borrower's knowledge, threatened against any Borrower or Subsidiary, or any of their businesses, operations, Properties, prospects or conditions, that (a) relate to any Loan Documents or transactions contemplated thereby; or (b) could reasonably be expected to have a Material Adverse Effect if determined adversely to any Borrower or Subsidiary. Except as shown on such Schedule, no Obligor has a Commercial Tort Claim (other than, as long as no Default or Event of Default exists, a Commercial Tort Claim for less than \$125,000). No Borrower or Subsidiary is in default with respect to any order, injunction or judgment of any Governmental Authority.

9.1.16. No Defaults. No event or circumstance has occurred or exists that constitutes a Default or Event of Default. No Borrower or Subsidiary is in default, and no event or circumstance has occurred or exists that with the passage of time or giving of notice would constitute a default, under any Material Contract or in the payment of any Borrowed Money or allow termination of any Material Contract.

9.1.17. ERISA. Except as disclosed on **Schedule 9.1.17**:

(a) Each Plan is in compliance in all material respects with the applicable provisions of ERISA, the Code, and other federal and state laws. Each Plan that is intended to qualify under Section 401(a) of the Code has received a favorable determination letter from the IRS or an application for such a letter is currently being processed by the IRS with respect thereto and, to the knowledge of Borrowers, nothing has occurred which would prevent, or cause the loss of, such qualification. Each Obligor and ERISA Affiliate has met all applicable requirements under the Code, ERISA and the Pension Protection Act of 2006, and no application for a waiver of the minimum funding standards or an extension of any amortization period has been made with respect to any Plan.

(b) There are no pending or, to the knowledge of Borrowers, threatened claims, actions or lawsuits, or action by any Governmental Authority, with respect to any Plan that could reasonably be expected to have a Material Adverse Effect. There has been no prohibited transaction or violation of the fiduciary responsibility rules with respect to any Plan that has resulted in or could reasonably be expected to have a Material Adverse Effect.

(c) (i) No ERISA Event has occurred or is reasonably expected to occur; (ii) no Pension Plan has any Unfunded Pension Liability; (iii) no Obligor or ERISA Affiliate has incurred, or reasonably expects to incur, any liability under Title IV of ERISA with respect to any Pension Plan (other than premiums due and not delinquent under Section 4007 of ERISA); (iv) no Obligor or ERISA Affiliate has incurred, or reasonably expects to incur, any liability (and no event has occurred which, with the giving of notice under Section 4219 of ERISA, would result in such liability) under Section 4201 or 4243 of ERISA with respect to a Multiemployer Plan; (v) no Obligor or ERISA Affiliate has engaged in a transaction that could be subject to Section 4069 or 4212(c) of ERISA; and (vi) as of the most recent valuation date for any Pension Plan or Multiemployer Plan, the funding target attainment percentage (as defined in Section 430(d)(2) of the Code) is at least 60%, and no Obligor or ERISA Affiliate knows of any fact or circumstance that could reasonably be expected to cause the funding target attainment percentage for any such plan to drop below 60% as of such date.

(d) With respect to any Foreign Plan, (i) all employer and employee contributions required by law or by the terms of the Foreign Plan have been made, or, if applicable, accrued, in accordance with normal accounting practices; (ii) the fair market value of the assets of each funded Foreign Plan, the liability of each insurer for any Foreign Plan funded through insurance, or the book reserve established for any Foreign Plan, together with any accrued contributions, is sufficient to procure or provide for the accrued benefit obligations with respect to all current and former participants in such Foreign Plan according to the actuarial assumptions and valuations most recently used to account for such obligations in accordance with applicable generally accepted accounting principles; and (iii) it has been registered as required and has been maintained in good standing with applicable regulatory authorities.

9.1.18. Trade Relations. There exists no actual or threatened termination, limitation or modification of any business relationship between any Borrower or Subsidiary and any customer or supplier, or any group of customers or suppliers, who individually or in the aggregate are material to the business of such Borrower or Subsidiary. There exists no condition or circumstance that could reasonably be expected to impair the ability of any Borrower or Subsidiary to conduct its business at any time hereafter in substantially the same manner as conducted on the Closing Date.

9.1.19. Labor Relations. No Borrower or Subsidiary is party to or bound by any collective bargaining agreement. Except as set forth on **Schedule 9.1.19**, no Borrower or Subsidiary is party to any management agreement or consulting agreement. There are no material grievances, disputes or controversies with any union or other organization of any Borrower's or Subsidiary's employees, or, to any Borrower's knowledge, any asserted or threatened strikes, work stoppages or demands for collective bargaining.

9.1.20. Payable Practices. No Borrower or Subsidiary has made any material change in its historical accounts payable practices from those in effect on the Closing Date.

9.1.21. Not a Regulated Entity. No Obligor is (a) an "investment company" or a "person directly or indirectly controlled by or acting on behalf of an investment company" within the meaning of the Investment Company Act of 1940; or (b) subject to regulation under the Federal Power Act, the Interstate Commerce Act, any public utilities code or any other Applicable Law regarding its authority to incur Debt.

9.1.22. Margin Stock. No Borrower or Subsidiary is engaged, principally or as one of its important activities, in the business of extending credit for the purpose of purchasing or carrying any Margin Stock. No Loan proceeds will be used by Borrowers to purchase or carry, or to reduce or refinance any Debt incurred to purchase or carry, any Margin Stock or for any related purpose governed by Regulations T, U or X of the Board of Governors.

9.1.23. OFAC. No Borrower, Subsidiary or, to the knowledge of any Borrower or Subsidiary, any director, officer, employee, agent, affiliate or representative thereof, is an individual or entity currently the subject of any Sanctions. No Borrower or Subsidiary is located, organized or resident in a Designated Jurisdiction.

9.2. Complete Disclosure. No Loan Document contains any untrue statement of a material fact, nor fails to disclose any material fact necessary to make the statements contained therein not materially misleading in light of the circumstances in which such statements were made. There is no fact or circumstance that any Obligor has failed to disclose to Lender in writing that could reasonably be expected to have a Material Adverse Effect.

SECTION 10. COVENANTS AND CONTINUING AGREEMENTS

10.1. Affirmative Covenants. Until Full Payment of the Obligations, each Borrower shall, and shall cause each Subsidiary to:

10.1.1. Inspections; Appraisals.

(a) Permit Lender from time to time, subject (except when a Default or Event of Default exists) to reasonable notice and normal business hours, to visit and inspect the Properties of any Borrower or Subsidiary, inspect, audit and make extracts from any Borrower's or Subsidiary's books and records, and discuss with its officers, employees, agents, advisors and independent accountants such Borrower's or Subsidiary's business, financial condition, assets, prospects and results of operations. Lender shall not have any duty to any Borrower to make any inspection, nor to share any results of any inspection, appraisal or report with any Borrower. Borrowers acknowledge that all inspections, appraisals and reports are prepared by Lender for its purposes, and Borrowers shall not be entitled to rely upon them.

(b) Reimburse Lender for all its reasonable and documented charges, costs and expenses in connection with (i) examinations of any Obligor's books and records or any other financial or Collateral matters as Lender deems appropriate, up to two times per Loan Year; and (ii) appraisals of Inventory up to one time per Loan Year; provided, however, that if an examination or appraisal is initiated during a Default or Event of Default, all charges, costs and expenses therefor shall be reimbursed by Borrowers without regard to such limits. Subject to and without limiting the foregoing, Borrowers agree to pay Lender's then standard charges for examination activities, including the standard charges of Lender's internal examination and appraisal groups, as well as the charges of any third party used for such purposes.

10.1.2. Financial and Other Information. Keep adequate records and books of account with respect to its business activities, in which proper entries are made in accordance with GAAP reflecting all financial transactions; and furnish to Lender:

(a) (i) as soon as available, and in any event within 120 days after the Closing Date, (A) an opening balance sheet as of a date not later than July 17, 2015, on a consolidated basis for Holdings, which balance sheet shall be audited and certified (without qualification) by a firm of independent certified public accountants of recognized standing selected by Borrowers and reasonably acceptable to Lender, and (B) an opening balance sheet as of a date not later than July 17, 2015, unaudited and on a consolidating basis for each of the other Borrowers and Subsidiaries, (ii) as soon as available, and in any event within 120 days after the close of Fiscal Year 2015, (A) a balance sheet as of the end of such Fiscal Year and the related statements of income, cash flow and shareholders' equity for the period from the Closing Date through the end of such Fiscal Year, on a consolidated basis for Holdings, which consolidated statements shall be audited and certified (without qualification) by a firm of independent certified public accountants of recognized standing selected by Borrowers and reasonably acceptable to Lender, and shall set forth in comparative form corresponding figures for the preceding Fiscal Year and other information reasonably acceptable to Lender, and (B) a balance sheet as of the end of such Fiscal Year and the related statements of income, cash flow and shareholders' equity for the period from the Closing Date through the end of such Fiscal Year, unaudited and on a consolidating basis for the other Borrowers and Subsidiaries, and (iii) as soon as available, and in any event within 120 days after the close of each Fiscal Year thereafter, (A) a balance sheet as of the end of such Fiscal Year and the related statements of income, cash flow and shareholders' equity for such Fiscal Year, on a consolidated basis for Holdings, which consolidated statements shall be audited and certified (without qualification) by a firm of independent certified public accountants of recognized standing selected by Borrowers and reasonably acceptable to Lender, and shall set forth in comparative form corresponding figures for the preceding Fiscal Year and other information reasonably acceptable to Lender, and (B) a balance sheet as of the end of such Fiscal Year and the related statements of income, cash flow and shareholders' equity for such Fiscal Year, unaudited and on a consolidating basis for the other Borrowers and Subsidiaries;

(b) as soon as available, and in any event within 30 days after the end of each month, unaudited balance sheets as of the end of such month and the related statements of income and cash flow for such month and for the portion of the Fiscal Year then elapsed, on consolidated and consolidating bases for Borrowers and Subsidiaries, setting forth in comparative form corresponding figures for the preceding Fiscal Year and certified by the chief financial officer or Treasurer of Borrower Agent as prepared in accordance with GAAP and fairly presenting in all material respects the financial position and results of operations for such month and period, subject to normal year-end adjustments and the absence of footnotes;

(c) concurrently with delivery of financial statements under clauses (a) and (b) above, or more frequently if requested by Lender while a Default or Event of Default exists, a Compliance Certificate executed by the chief financial officer or Treasurer of Borrower Agent;

(d) concurrently with delivery of financial statements under clause (a) above, copies of all management letters and other material reports submitted to Borrowers by their accountants in connection with such financial statements;

(e) no later than 60 days after the end of each Fiscal Year, projections of Borrowers' consolidated balance sheets, results of operations, and cash flow for the next Fiscal Year, month by month;

(f) at Lender's request, a listing of each Borrower's trade payables, specifying the trade creditor and balance due, and a detailed trade payable aging, all in form reasonably satisfactory to Lender;

(g) promptly after the sending or filing thereof, copies of any proxy statements, financial statements or reports that any Borrower has made generally available to its shareholders; copies of any regular, periodic and special reports or registration statements or prospectuses that any Borrower files with the Securities and Exchange Commission or any other Governmental Authority, or any securities exchange; and copies of any press releases or other statements made available by a Borrower to the public concerning material changes to or developments in the business of such Borrower;

(h) promptly after the sending or filing thereof, copies of any annual report to be filed in connection with each Plan or Foreign Plan;

(i) such other reports and information (financial or otherwise) as Lender may reasonably request from time to time in connection with any Collateral or any Borrower's, Subsidiary's or other Obligor's financial condition or business;

(j) as soon as available, and in any event within 120 days after the close of each Fiscal Year, financial statements for each Guarantor, in form and substance satisfactory to Lender;

(k) upon receipt or delivery thereof by or to any Obligor or Subsidiary, any notice of "Default" or "Event of Default" (under and as defined in the Senior Debt Documents) and, without duplication of any report required to be provided hereunder, each material report required to be provided pursuant to the Senior Loan Agreement and, upon execution thereof, any waiver, amendment or other modification to the Senior Debt Documents;

(l) upon receipt or delivery thereof by or to any Borrower, any notice of "Default" or "Event of Default" (under and as defined in the Factoring Agreements) and, without duplication of any report required to be provided hereunder, each material report required to be provided pursuant to the Factoring Agreements and, upon execution thereof, any waiver, amendment or other modification to the Factoring Agreements; and

(m) at Lender's request at any time after any Borrower files or consents to the filing of a consolidated income tax return with any Person other than Borrowers and Subsidiaries under the limited circumstances set forth in **Section 10.2.12**, provide Lender with true, correct and complete copies of all filed consolidated income tax returns for the Person with which such Borrower files or consents to the filing of such consolidated income tax returns and evidence that such Person has timely and fully paid all Taxes owing to Governmental Authorities under such returns.

10.1.3. **Notices.** Notify Lender in writing, promptly after a Borrower's obtaining knowledge thereof, of any of the following that affects an Obligor: (a) the threat or commencement of any proceeding or investigation, whether or not covered by insurance, if an adverse determination could reasonably be expected to have a Material Adverse Effect; (b) any pending or threatened labor dispute, strike or walkout, or the expiration of any material labor contract; (c) any default under or termination of a Material Contract; (d) the existence of any Default or Event of Default; (e) any judgment in an amount exceeding \$312,500 not covered by insurance; (f) the assertion of any Intellectual Property Claim, if an adverse resolution could reasonably be expected to have a Material Adverse Effect; (g) any violation or asserted violation of any Applicable Law (including ERISA, OSHA, FLSA, or any Environmental Laws), if an adverse resolution could reasonably be expected to have a Material Adverse Effect; (h) any Environmental Release by an Obligor or on any Property owned, leased or occupied by an Obligor; or receipt of any Environmental Notice; (i) the occurrence of any ERISA Event; (j) the discharge of or any withdrawal or resignation by Borrowers' independent accountants; (k) any opening of a new office or place of business, at least 30 days prior to such opening; (l) without duplication of any notice required to be provided hereunder, each material notice required to be provided pursuant to the Senior Loan Agreement; or (m) without duplication of any notice required to be provided hereunder, each material notice required to be provided pursuant to any Factoring Agreement.

10.1.4. Landlord and Storage Agreements. Upon reasonable request, provide Lender with copies of all existing agreements, and promptly after execution thereof provide Lender with copies of all future agreements, between an Obligor and any landlord, warehouseman, processor, shipper, bailee or other Person that owns any premises at which any Collateral may be kept or that otherwise may possess or handle any Collateral.

10.1.5. Compliance with Laws. Comply with all Applicable Laws, including ERISA, Environmental Laws, FLSA, OSHA, Anti-Terrorism Laws, and laws regarding collection and payment of Taxes, and maintain all Governmental Approvals necessary to the ownership of its Properties or conduct of its business, unless failure to comply (other than failure to comply with Anti-Terrorism Laws) or maintain could not reasonably be expected to have a Material Adverse Effect. Without limiting the generality of the foregoing, if any material Environmental Release occurs at or on any Properties of any Borrower or Subsidiary, it shall act promptly and diligently to investigate and report to Lender and all appropriate Governmental Authorities the extent of, and to make appropriate remedial action to eliminate, such Environmental Release, whether or not directed to do so by any Governmental Authority.

10.1.6. Taxes. Pay and discharge all Taxes prior to the date on which they become delinquent or penalties attach, unless such Taxes are being Properly Contested.

10.1.7. Insurance. In addition to the insurance required hereunder with respect to Collateral, maintain insurance with insurers (with a Best Rating of at least A, unless otherwise approved by Lender in its discretion) satisfactory to Lender, (a) with respect to the Properties and business of Borrowers and Subsidiaries of such type (including product liability, workers' compensation, larceny, embezzlement, or other criminal misappropriation insurance), in such amounts, and with such coverages and deductibles as are customary for companies similarly situated; and (b) business interruption insurance in an amount not less than \$8,000,000, with deductibles and subject to an Insurance Assignment satisfactory to Lender.

10.1.8. Licenses. Keep each material License affecting any Collateral (including the manufacture, distribution or disposition of Inventory) or any other material Property of Borrowers and Subsidiaries in full force and effect; promptly notify Lender of any proposed modification to any such License, or entry into any new material License, in each case at least 10 days prior to its effective date; pay all Royalties when due; and notify Lender of any default or breach asserted by any Person to have occurred under any such License.

10.1.9. Future Subsidiaries. Promptly notify Lender upon any Person becoming a Subsidiary and, if such Person is not a Foreign Subsidiary, cause it to guaranty the Obligations (or, if requested by Borrowers and agreed to by Lender in its discretion, become a Borrower hereunder) in a manner reasonably satisfactory to Lender, and to execute and deliver such documents, instruments and agreements and to take such other actions as Lender shall reasonably require to evidence and perfect a Lien in favor of Lender on all assets of such Person (other than Excluded Assets), including delivery of such legal opinions, in form and substance reasonably satisfactory to Lender, as it shall deem appropriate.

10.2. Negative Covenants. Until Full Payment of the Obligations, each Borrower shall not, and shall cause each Subsidiary not to:

10.2.1. Permitted Debt. Create, incur, guarantee or suffer to exist any Debt, except:

- hereof;
- (a) the Obligations;
 - (b) the Senior Debt, subject to the terms of the Debt and Lien Subordination Agreement as in effect on the date hereof;
 - (c) Subordinated Debt;
 - (d) Permitted Purchase Money Debt;
 - (e) Borrowed Money (other than the Obligations, Senior Debt, Subordinated Debt and Permitted Purchase Money Debt), but only to the extent outstanding on the Closing Date and not satisfied with proceeds of the Loan;
 - (f) Bank Product Debt incurred in the Ordinary Course of Business;
 - (g) Debt that is in existence when a Person becomes a Subsidiary or that is secured by an asset when acquired by a Borrower or Subsidiary, as long as such Debt was not incurred in contemplation of such Person becoming a Subsidiary or such acquisition, and does not exceed \$2,500,000 in the aggregate at any time
 - (h) Permitted Contingent Obligations;
 - (i) Refinancing Debt as long as each Refinancing Condition is satisfied;
 - (j) Debt incurred pursuant to any intercompany loan permitted under **Section 10.2.7**;
 - (k) guaranties by any Borrower of Debt or other obligations or another Borrower or Subsidiary with respect, in each case, to Debt otherwise permitted to be incurred under this **Section 10.2.1**; and
 - (l) Debt that is not included in any of the preceding clauses of this Section, is not secured by a Lien and does not exceed \$3,125,000 in the aggregate at any time.

10.2.2. Permitted Liens. Create or suffer to exist any Lien upon any of its Property, except the following (collectively, "Permitted Liens"):

- (a) Liens in favor of Lender;
 - (b) Liens in favor of the Senior Lender securing the Senior Debt permitted hereunder so long as the Debt and Lien Subordination Agreement remains in full force and effect with respect thereto;
 - (c) Purchase Money Liens securing Permitted Purchase Money Debt;
 - (d) Liens for Taxes not yet due or being Properly Contested;
 - (e) statutory Liens (other than Liens for Taxes or imposed under ERISA) arising in the Ordinary Course of Business, but only if (i) payment of the obligations secured thereby is not yet due or is being Properly Contested, and (ii) such Liens do not materially impair the value or use of the Property or materially impair operation of the business of any Borrower or Subsidiary;
 - (f) Liens incurred or deposits made in the Ordinary Course of Business to secure the performance of government tenders, bids, contracts, statutory obligations and other similar obligations, as long as such Liens are at all times junior to Lender's Liens and are required or provided by law;
-

(g) Liens arising in the Ordinary Course of Business that are subject to Lien Waivers;

(h) Liens arising by virtue of a judgment or judicial order against any Borrower or Subsidiary, or any Property of a Borrower or Subsidiary, as long as such Liens are (i) in existence for less than 20 consecutive days or being Properly Contested, and (ii) at all times junior to Lender's Liens;

(i) easements, rights-of-way, restrictions, covenants or other agreements of record, and other similar charges or encumbrances on Real Estate, that do not secure any monetary obligation and do not interfere with the Ordinary Course of Business;

(j) normal and customary rights of setoff upon deposits in favor of depository institutions, and Liens of a collecting bank on Payment Items in the course of collection;

(k) existing Liens shown on **Schedule 10.2.2**;

(l) Liens on the Factored Accounts created for the purpose of evidencing the transfer and sale of Accounts sold to the Factors pursuant to the terms of the Factoring Agreements, provided that a Factor Intercreditor Agreement has been received by Lender and remains in effect with respect to each such Factoring Agreement;

(m) any interest or title of a lessor or sublessor under any lease permitted hereunder;

(n) any zoning or similar law or right reserved to or vested in any Governmental Authority to control or regulate the use of any real Property not materially detracting from the value of such real Property; and

(o) Liens incurred in the Ordinary Course of Business on deposits made in connection with workers' compensation, unemployment insurance and other types of social security that are junior to Lender's Liens.

10.2.3. Reserved.

10.2.4. Distributions; Upstream Payments. (a) Declare or make any Distributions, except: (i) Upstream Payments, (ii) Permitted Tax Distributions, and (iii) Permitted Non-Tax Distributions.

(b) Create or suffer to exist any encumbrance or restriction on the ability of a Subsidiary to make any Upstream Payment, except for restrictions under the Loan Documents, under Applicable Law or in effect on the Closing Date as shown on **Schedule 9.1.14**.

10.2.5. Restricted Investments. Make any Restricted Investment.

10.2.6. Disposition of Assets. Make any Asset Disposition, except a Permitted Asset Disposition or a transfer of Property by a Subsidiary or Obligor to a Borrower.

10.2.7. Loans. Make any loans or other advances of money to any Person, except (a) advances to an officer or employee for salary, travel expenses, commissions and similar items in the Ordinary Course of Business; (b) prepaid expenses and extensions of trade credit made in the Ordinary Course of Business; (c) deposits with financial institutions permitted hereunder; and (d) as long as no Default or Event of Default exists, intercompany loans by a Borrower to another Borrower.

10.2.8. Restrictions on Payment of Certain Debt. Make any payments (whether voluntary or mandatory, or a prepayment, redemption, retirement, defeasance or acquisition) with respect to any:

(a) Subordinated Debt, except regularly scheduled payments of principal, interest and fees, but only to the extent permitted under any subordination agreement relating to such Debt (and a Senior Officer of Borrower Agent shall certify to Lender, not less than five Business Days prior to the date of payment, that all conditions under such agreement have been satisfied); or

(b) Senior Debt as and to the extent provided under the Senior Loan Agreement and other Senior Debt Documents;
or

(c) Borrowed Money (other than the Obligations, the Senior Debt and Subordinated Debt) prior to its due date under the agreements evidencing such Debt as in effect on the Closing Date (or as amended thereafter with the consent of Lender).

10.2.9. Fundamental Changes. (a) Without giving 30 days prior written notice to Lender, change its name or conduct business under any fictitious name; change its tax, charter or other organizational identification number; change its form or state of organization; (b) liquidate, wind up its affairs or dissolve itself; or merge, combine or consolidate with any Person, whether in a single transaction or in a series of related transactions, except for (i) mergers or consolidations of a wholly-owned Subsidiary with another wholly-owned Subsidiary or into a Borrower; or (ii) Permitted Acquisitions.

10.2.10. Subsidiaries. Form or acquire any Subsidiary after the Closing Date, except in accordance with **Sections 10.1.9, 10.2.5 or 10.2.9**; or permit any existing Subsidiary to issue any additional Equity Interests except directors' qualifying shares.

10.2.11. Organic Documents. Amend, modify or otherwise change any of its Organic Documents, except in connection with a transaction permitted under **Section 10.2.9**.

10.2.12. Tax Consolidation. File or consent to the filing of any consolidated income tax return with any Person other than Borrowers and Subsidiaries or any corporation that owns all of the Equity Interests of any Obligor.

10.2.13. Accounting Changes. Make any material change in accounting treatment or reporting practices, except as required by GAAP and in accordance with **Section 1.2**; or change its Fiscal Year.

10.2.14. Restrictive Agreements. Become a party to any Restrictive Agreement, except a Restrictive Agreement (a) in effect on the Closing Date; (b) relating to secured Debt permitted hereunder, as long as the restrictions apply only to collateral for such Debt; or (c) constituting customary restrictions on assignment in leases and other contracts.

10.2.15. Hedging Agreements. Enter into any Hedging Agreement, except to hedge risks arising in the Ordinary Course of Business and not for speculative purposes.

10.2.16. Conduct of Business. Engage in any business, other than its business as conducted on the Closing Date (or similar related business) and any activities incidental thereto.

10.2.17. Affiliate Transactions. Enter into or be party to any transaction with an Affiliate, except (a) transactions contemplated by the Loan Documents or the Marquis SPA Documents; (b) payment of reasonable compensation to officers and employees for services actually rendered, and loans and advances permitted by **Section 10.2.7**; (c) payment of customary directors' fees and indemnities; (d) transactions solely among Borrowers; (e) transactions with Affiliates consummated prior to the Closing Date, as shown on **Schedule 10.2.17**; and (f) transactions with Affiliates in the Ordinary Course of Business, upon fair and reasonable terms fully disclosed to Lender and no less favorable than would be obtained in a comparable arm's-length transaction with a non-Affiliate.

10.2.18. Plans. Become party to any Multiemployer Plan or Foreign Plan, other than any in existence on the Closing Date.

10.2.19. Amendments to Senior Debt, Factoring Agreements and Other Subordinated Debt.

(a) Amend, supplement or otherwise modify any document, instrument or agreement relating to the Senior Debt, except to the extent expressly permitted under the terms of the Debt and Lien Subordination Agreement.

(b) Amend, supplement or otherwise modify any Factoring Agreement, except to the extent expressly permitted under the terms of the applicable Factor Intercreditor Agreement.

(c) Amend, supplement or otherwise modify any document, instrument or agreement relating to any Subordinated Debt if such modification (i) increases the principal balance of such Debt, or increases any required payment of principal or interest; (ii) accelerates the date on which any installment of principal or any interest is due, or adds any additional redemption, put or prepayment provisions; (iii) shortens the final maturity date or otherwise accelerates amortization; (iv) increases the interest rate; (v) increases or adds any fees or charges; (vi) modifies any covenant in a manner or adds any representation, covenant or default that is more onerous or restrictive in any material respect for any Borrower or Subsidiary, or that is otherwise materially adverse to any Borrower, any Subsidiary or Lender; or (vii) results in the Obligations not being fully benefited by the subordination provisions thereof.

10.3. Financial Covenants. As long as any Obligations are outstanding, Borrowers shall:

10.3.1. Fixed Charge Coverage Ratio. Maintain a Fixed Charge Coverage Ratio of at least 1.0 to 1.0, tested as of the last day of each month for the twelve consecutive months ending on such day.

SECTION 11. EVENTS OF DEFAULT; REMEDIES ON DEFAULT

11.1. Events of Default. Each of the following shall be an "Event of Default" if it occurs for any reason whatsoever, whether voluntary or involuntary, by operation of law or otherwise:

(a) Any Borrower fails to pay its Obligations when due (whether at stated maturity, on demand, upon acceleration or otherwise);

(b) Any representation, warranty or other written statement of an Obligor made in connection with any Loan Documents or transactions contemplated thereby is incorrect or misleading in any material respect when given;

(c) A Borrower breaches or fail to perform any covenant contained in **Section 7.2, 7.3, 7.4, 7.6, 8.1.2, 10.1.1, 10.1.2, 10.2 or 10.3**;

(d) An Obligor breaches or fails to perform any other covenant contained in any Loan Documents, and such breach or failure is not cured within 15 days after a Senior Officer of such Obligor has knowledge thereof or receives notice thereof from Lender, whichever is sooner; provided, however, that such notice and opportunity to cure shall not apply if the breach or failure to perform is not capable of being cured within such period or is a willful breach by an Obligor;

(e) A Guarantor repudiates, revokes or attempts to revoke its Guaranty; an Obligor or third party denies or contests the validity or enforceability of any Loan Documents or Obligations, or the perfection or priority of any Lien granted to Lender; or any Loan Document ceases to be in full force or effect for any reason (other than a waiver or release by Lender);

(f) Any breach or default of an Obligor occurs (after giving effect to any applicable grace period thereunder) under (i) any Hedging Agreement; (ii) any Senior Debt Document; (iii) any Factoring Agreement; or (iv) any instrument or agreement to which it is a party or by which it or any of its Properties is bound, relating to any Debt (other than the Obligations) in excess of \$1,250,000, if the maturity of or any payment with respect to such Debt may be accelerated or demanded due to such breach;

(g) Any judgment or order for the payment of money is entered against an Obligor in an amount that exceeds, individually or cumulatively with all unsatisfied judgments or orders against all Obligors, \$937,500 (net of insurance coverage therefor that has not been denied by the insurer), unless a stay of enforcement of such judgment or order is in effect, by reason of a pending appeal or otherwise;

(h) A loss, theft, damage or destruction occurs with respect to any Collateral if the amount not covered by insurance exceeds \$625,000;

(i) An Obligor is enjoined, restrained or in any way prevented by any Governmental Authority from conducting any material part of its business; an Obligor suffers the loss, revocation or termination of any material license, permit, lease or agreement necessary to its business; there is a cessation of any material part of an Obligor's business for a material period of time; any material Collateral or Property of an Obligor is taken or impaired through condemnation; an Obligor agrees to or commences any liquidation, dissolution or winding up of its affairs except in connection with a merger or consolidation with another Obligor that is permitted under this Agreement; or an Obligor is not Solvent;

(j) An Insolvency Proceeding is commenced by an Obligor; an Obligor makes an offer of settlement, extension or composition to its unsecured creditors generally; a trustee is appointed to take possession of any substantial Property of or to operate any of the business of an Obligor; or an Insolvency Proceeding is commenced against an Obligor and: the Obligor consents to institution of the proceeding, the petition commencing the proceeding is not timely contested by the Obligor, the petition is not dismissed within 30 days after filing, or an order for relief is entered in the proceeding;

(k) An ERISA Event occurs with respect to a Pension Plan or Multiemployer Plan that has resulted or could reasonably be expected to result in liability of an Obligor to a Pension Plan, Multiemployer Plan or PBGC, or that constitutes grounds for appointment of a trustee for or termination by the PBGC of any Pension Plan or Multiemployer Plan; an Obligor or ERISA Affiliate fails to pay when due any installment payment with respect to its withdrawal liability under Section 4201 of ERISA under a Multiemployer Plan; or any event similar to the foregoing occurs or exists with respect to a Foreign Plan;

(l) An Obligor or any of its Senior Officers is criminally indicted or convicted for (i) a felony committed in the conduct of the Obligor's business, or (ii) violating any state or federal law (including the Controlled Substances Act, Money Laundering Control Act of 1986 and Illegal Exportation of War Materials Act) that could lead to forfeiture of any material Property or any Collateral; or

(m) A Change of Control occurs; or any event occurs or condition exists that has a Material Adverse Effect.

11.2. Remedies upon Default. If an Event of Default described in **Section 11.1(j)** occurs with respect to any Borrower, then to the extent permitted by Applicable Law and subject to the Debt and Lien Subordination Agreement, all Obligations shall become automatically due and payable, without any action by Lender or notice of any kind. In addition, or if any other Event of Default exists, Lender may in its discretion do any one or more of the following from time to time, subject to the Debt and Lien Subordination Agreement:

(a) declare any Obligations immediately due and payable, whereupon they shall be due and payable without diligence, presentment, demand, protest or notice of any kind, all of which are hereby waived by Borrowers to the fullest extent permitted by law;

(b) require Obligors to Cash Collateralize Obligations that are contingent or not yet due and payable; and

(c) exercise any other rights or remedies afforded under any agreement, by law, at equity or otherwise, including the rights and remedies of a secured party under the UCC. Such rights and remedies include the rights to (i) take possession of any Collateral; (ii) require Borrowers to assemble Collateral, at Borrowers' expense, and make it available to Lender at a place designated by Lender; (iii) enter any premises where Collateral is located and store Collateral on such premises until sold (and if the premises are owned or leased by a Borrower, Borrowers agree not to charge for such storage); and (iv) sell or otherwise dispose of any Collateral in its then condition, or after any further manufacturing or processing thereof, at public or private sale, with such notice as may be required by Applicable Law, in lots or in bulk, at such locations, all as Lender, in its discretion, deems advisable. Each Borrower agrees that 10 days notice of any proposed sale or other disposition of Collateral by Lender shall be reasonable, and that any sale conducted on the internet or to a licensor of Intellectual Property shall be commercially reasonable. Lender may conduct sales on any Obligor's premises, without charge, and any sales may be adjourned from time to time in accordance with Applicable Law. Lender shall have the right to sell, lease or otherwise dispose of any Collateral for cash, credit or any combination thereof, and Lender may purchase any Collateral at public or, if permitted by law, private sale and, in lieu of actual payment of the purchase price, may set off the amount of such price against the Obligations.

11.3. License. To the extent permitted under the terms of any underlying license or sublicense agreements (if applicable) and subject to the Debt and Lien Subordination Agreement, Lender is hereby granted an irrevocable, non-exclusive license or other right to use, license or sub-license during the existence of an Event of Default (without payment of royalty or other compensation to any Person) any or all Intellectual Property of Borrowers, computer hardware and software, trade secrets, brochures, customer lists, promotional and advertising materials, labels, packaging materials and other Property, in advertising for sale, marketing, selling, collecting, completing manufacture of, or otherwise exercising any rights or remedies with respect to, any Collateral. Each Borrower's rights and interests under Intellectual Property shall inure to Lender's benefit.

11.4. Setoff. At any time during an Event of Default and subject to the Debt and Lien Subordination Agreement, Lender and its Affiliates are authorized, to the fullest extent permitted by Applicable Law, to set off and apply any and all deposits (general or special, time or demand, provisional or final, in whatever currency) at any time held and other obligations (in whatever currency) at any time owing by Lender or such Affiliate to or for the credit or the account of an Obligor against its Obligations, whether or not Lender or such Affiliate shall have made any demand under this Agreement or any other Loan Document and although such Obligations may be contingent or unmatured. The rights of Lender and each such Affiliate under this Section are in addition to other rights and remedies (including other rights of setoff) that such Person may have.

11.5. Remedies Cumulative; No Waiver.

11.5.1. **Cumulative Rights.** All agreements, warranties, guaranties, indemnities and other undertakings of Obligors under the Loan Documents are cumulative and not in derogation of each other. The rights and remedies of Lender under the Loan Documents are cumulative, may be exercised at any time and from time to time, concurrently or in any order, and are not exclusive of any other rights or remedies available by agreement, by law, at equity or otherwise. All such rights and remedies shall continue in full force and effect until Full Payment of all Obligations.

11.5.2. **Waivers.** No waiver or course of dealing shall be established by (a) the failure or delay of Lender to require strict performance by any Obligor under any Loan Document, or to exercise any rights or remedies with respect to Collateral or otherwise; (b) the making of the Loan during a Default, Event of Default or other failure to satisfy any conditions precedent; or (c) acceptance by Lender of any payment or performance by an Obligor under any Loan Documents in a manner other than that specified therein. Any failure to satisfy a financial covenant on a measurement date shall not be cured or remedied by satisfaction of such covenant on a subsequent date.

SECTION 12. MISCELLANEOUS

12.1. Amendments and Waivers.

12.1.1. Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of Borrowers, Lender, and their respective successors and assigns, except that no Borrower shall have the right to assign its rights or delegate its obligations under any Loan Documents.

12.1.2. Amendments and Other Modifications. No modification of any Loan Document, including any extension or amendment of a Loan Document or any waiver of a Default or Event of Default, shall be effective without the prior written agreement of Lender and each Obligor party to such Loan Document. Any waiver or consent granted by Lender shall be effective only if in writing, and only for the matter specified.

12.2. Indemnity. **EACH BORROWER SHALL INDEMNIFY AND HOLD HARMLESS THE INDEMNITEES AGAINST ANY CLAIMS THAT MAY BE INCURRED BY OR ASSERTED AGAINST ANY INDEMNITEE, INCLUDING CLAIMS ASSERTED BY ANY OBLIGOR OR OTHER PERSON OR ARISING FROM THE NEGLIGENCE OF AN INDEMNITEE.** In no event shall any party to a Loan Document have any obligation thereunder to indemnify or hold harmless an Indemnitee with respect to a Claim that is determined in a final, non-appealable judgment by a court of competent jurisdiction to result from the gross negligence or willful misconduct of such Indemnitee.

12.3. Notices and Communications.

12.3.1. Notice Address. All notices and other communications by or to a party hereto shall be in writing and shall be given to any Borrower, at Borrower Agent's address shown on the signature pages hereof, and to any other Person at its address shown on the signature pages hereof, or at such other address as a party may hereafter specify by notice in accordance with this **Section 12.3**. Each such notice or other communication shall be effective only (a) if given by facsimile transmission, when transmitted to the applicable facsimile number, if confirmation of receipt is received; (b) if given by mail, three Business Days after deposit in the U.S. mail, with first-class postage pre-paid, addressed to the applicable address; or (c) if given by personal delivery, when duly delivered to the notice address with receipt acknowledged. Notwithstanding the foregoing, no notice to Lender pursuant to **Section 5.2.3** shall be effective until actually received by the individual to whose attention at Lender such notice is required to be sent. Any written notice or other communication that is not sent in conformity with the foregoing provisions shall nevertheless be effective on the date actually received by the noticed party. Any notice received by Borrower Agent shall be deemed received by all Borrowers.

12.3.2. Electronic Communications; Voice Mail. Electronic mail and internet websites may be used only for routine communications, such as delivery of financial statements and other information required by **Section 10.1.2**, administrative matters, and distribution of Loan Documents. Lender make no assurances as to the privacy and security of electronic communications. Electronic and voice mail may not be used as effective notice under the Loan Documents.

12.3.3. [Omitted.]

12.3.4. Non-Conforming Communications. Lender may rely upon any communications purportedly given by or on behalf of any Borrower even if they were not made in a manner specified herein, were incomplete or were not confirmed, or if the terms thereof, as understood by the recipient, varied from a later confirmation. Each Borrower shall indemnify and hold harmless each Indemnitee from any liabilities, losses, costs and expenses arising from any electronic or telephonic communication purportedly given by or on behalf of a Borrower.

12.4. Performance of Borrowers' Obligations. Lender may, in its discretion at any time and from time to time, at Borrowers' expense, pay any amount or do any act required of a Borrower under any Loan Documents or otherwise lawfully requested by Lender to (a) enforce any Loan Documents or collect any Obligations; (b) protect, insure, maintain or realize upon any Collateral; or (c) defend or maintain the validity or priority of Lender's Liens in any Collateral, including any payment of a judgment, insurance premium, warehouse charge, finishing or processing charge, or landlord claim, or any discharge of a Lien. All payments, costs and expenses (including Extraordinary Expenses) of Lender under this Section shall be reimbursed by Borrowers, **on demand**, with interest from the date incurred until paid in full, at the Default Rate. Any payment made or action taken by Lender under this Section shall be without prejudice to any right to assert an Event of Default or to exercise any other rights or remedies under the Loan Documents.

12.5. Credit Inquiries. Lender may (but shall have no obligation) to respond to usual and customary credit inquiries from third parties concerning any Obligor or Subsidiary.

12.6. Severability. Wherever possible, each provision of the Loan Documents shall be interpreted in such manner as to be valid under Applicable Law. If any provision is found to be invalid under Applicable Law, it shall be ineffective only to the extent of such invalidity and the remaining provisions of the Loan Documents shall remain in full force and effect.

12.7. Cumulative Effect; Conflict of Terms. The provisions of the Loan Documents are cumulative. The parties acknowledge that the Loan Documents may use several limitations or measurements to regulate similar matters, and they agree that these are cumulative and that each must be performed as provided. Except as otherwise provided in another Loan Document (by specific reference to the applicable provision of this Agreement), if any provision contained herein is in direct conflict with any provision in another Loan Document, the provision herein shall govern and control.

12.8. Counterparts; Execution. Any Loan Document may be executed in counterparts, each of which shall constitute an original, but all of which when taken together shall constitute a single contract. This Agreement shall become effective when Lender has received counterparts bearing the signatures of all parties hereto. Delivery of a signature page of any Loan Document by telecopy or other electronic means shall be effective as delivery of a manually executed counterpart of such agreement. Any electronic signature, contract formation on an electronic platform and electronic record-keeping shall have the same legal validity and enforceability as a manually executed signature or use of a paper-based recordkeeping system to the fullest extent permitted by Applicable Law, including the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act, or any similar state law based on the Uniform Electronic Transactions Act.

12.9. Entire Agreement. Time is of the essence with respect to all Loan Documents and Obligations. The Loan Documents constitute the entire agreement, and supersede all prior understandings and agreements, among the parties relating to the subject matter thereof.

12.10. No Control; No Advisory or Fiduciary Responsibility. Nothing in any Loan Document and no action of Lender pursuant to any Loan Document shall be deemed to constitute control of any Obligor by Lender. In connection with all aspects of each transaction contemplated by any Loan Document, Borrowers acknowledge and agree that (a)(i) this loan facility and all related services by Lender or its Affiliates are arm's-length commercial transactions between Borrowers and such Person; (ii) Borrowers have consulted their own legal, accounting, regulatory and tax advisors to the extent they have deemed appropriate; and (iii) Borrowers are capable of evaluating, and understand and accept, the terms, risks and conditions of the transactions contemplated by the Loan Documents; (b) each of Lender and its Affiliates is and has been acting solely as a principal and, except as expressly agreed in writing by the relevant parties, has not been, is not, and will not be acting as an advisor, agent or fiduciary for Borrowers, their Affiliates or any other Person, and has no obligation with respect to the transactions contemplated by the Loan Documents except as expressly set forth therein; and (c) Lender and its Affiliates may be engaged in a broad range of transactions that involve interests that differ from those of Borrowers and their Affiliates, and have no obligation to disclose any of such interests to Borrowers or their Affiliates. To the fullest extent permitted by Applicable Law, each Borrower hereby waives and releases any claims that it may have against Lender and its Affiliates with respect to any breach of agency or fiduciary duty in connection with any transaction contemplated by a Loan Document.

12.11. Confidentiality. Lender agrees to maintain the confidentiality of all Information (as defined below), except that Information may be disclosed (a) to its Affiliates, and its and their partners, directors, officers, employees, agents, advisors and representatives (provided they are informed of the confidential nature of the Information and instructed to keep it confidential); (b) to the extent requested by any governmental, regulatory or self-regulatory authority purporting to have jurisdiction over it or its Affiliates (in which case Lender shall notify Borrower Agent to the extent Lender is lawfully permitted to do so); (c) to the extent required by Applicable Law or by any subpoena or other legal process (in which case Lender shall notify Borrower Agent to the extent Lender is lawfully permitted to do so); (d) to any other party hereto; (e) in connection with any action or proceeding relating to any Loan Documents or Obligations; (f) subject to an agreement containing provisions substantially the same as this Section, to any potential or actual transferee of any interest in a Loan Document or any actual or prospective party (or its advisors) to any swap, derivative or other transaction under which payments are to be made by reference to an Obligor or Obligor's obligations; (g) with the consent of Borrower Agent; or (h) to the extent such Information (i) becomes publicly available other than as a result of a breach of this Section or (ii) is available to Lender or its Affiliates on a nonconfidential basis from a source other than Borrowers. Notwithstanding the foregoing, subject to Borrower Agent's prior written consent, Lender may publish or disseminate general information concerning this loan facility, and may use Borrowers' logos, trademarks or product photographs in advertising materials. As used herein, "Information" means information received from an Obligor or Subsidiary relating to it or its business, other than any information that is available to Lender on a nonconfidential basis prior to disclosure by an Obligor or Subsidiary, provided, that in the case of information received from an Obligor or Subsidiary after the Closing Date, such information is identified as confidential when delivered. A Person required to maintain the confidentiality of Information pursuant to this Section shall be deemed to have complied if it exercises a degree of care similar to that accorded its own confidential information. Lender acknowledges that (i) Information may include material non-public information; (ii) it has developed compliance procedures regarding the use of such information; and (iii) it will handle the material non-public information in accordance with Applicable Law.

12.12. GOVERNING LAW. UNLESS EXPRESSLY PROVIDED IN ANY LOAN DOCUMENT, THIS AGREEMENT, THE OTHER LOAN DOCUMENTS AND ALL CLAIMS SHALL BE GOVERNED BY THE LAWS OF THE STATE OF GEORGIA, WITHOUT GIVING EFFECT TO ANY CONFLICT OF LAW PRINCIPLES EXCEPT FEDERAL LAWS RELATING TO NATIONAL BANKS.

12.13. Consent to Forum.

12.13.1. Forum. EACH BORROWER HEREBY CONSENTS TO THE NON-EXCLUSIVE JURISDICTION OF ANY FEDERAL OR STATE COURT SITTING IN OR WITH JURISDICTION OVER THE NORTHERN DISTRICT OF GEORGIA OR MURRAY COUNTY, GEORGIA, IN ANY DISPUTE, ACTION, LITIGATION OR OTHER PROCEEDING RELATING IN ANY WAY TO ANY LOAN DOCUMENTS, AND AGREES THAT ANY DISPUTE, ACTION, LITIGATION OR OTHER PROCEEDING SHALL BE BROUGHT BY IT SOLELY IN ANY SUCH COURT. EACH BORROWER IRREVOCABLY AND UNCONDITIONALLY WAIVES ALL CLAIMS, OBJECTIONS AND DEFENSES THAT IT MAY HAVE REGARDING ANY SUCH COURT'S PERSONAL OR SUBJECT MATTER JURISDICTION, VENUE OR INCONVENIENT FORUM. EACH PARTY HERETO IRREVOCABLY AND UNCONDITIONALLY SUBMITS TO THE JURISDICTION OF SUCH COURTS AND CONSENTS TO SERVICE OF PROCESS IN THE MANNER PROVIDED FOR NOTICES IN SECTION 12.3.1. A final judgment in any proceeding of any such court shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or any other manner provided by Applicable Law.

12.13.2. Other Jurisdictions. Nothing herein shall limit the right of Lender to bring proceedings against any Obligor in any other court, nor limit the right of any party to serve process in any other manner permitted by Applicable Law. Nothing in this Agreement shall be deemed to preclude enforcement by Lender of any judgment or order obtained in any forum or jurisdiction.

12.14. **Waivers by Borrowers.** To the fullest extent permitted by Applicable Law, each Borrower waives (a) the right to trial by jury (which Lender hereby also waives) in any proceeding or dispute of any kind relating in any way to any Loan Documents, Obligations or Collateral; (b) presentment, demand, protest, notice of presentment, default, non-payment, maturity, release, compromise, settlement, extension or renewal of any commercial paper, accounts, documents, instruments, chattel paper and guaranties at any time held by Lender on which a Borrower may in any way be liable, and hereby ratifies anything Lender may do in this regard; (c) notice prior to taking possession or control of any Collateral; (d) any bond or security that might be required by a court prior to allowing Lender to exercise any rights or remedies; (e) the benefit of all valuation, appraisal and exemption laws; (f) any claim against Lender, on any theory of liability, for special, indirect, consequential, exemplary or punitive damages (as opposed to direct or actual damages) in any way relating to any Enforcement Action, Obligations, Loan Documents or transactions relating thereto; and (g) notice of acceptance hereof. Each Borrower acknowledges that the foregoing waivers are a material inducement to Lender entering into this Agreement and that Lender is relying upon the foregoing in its dealings with Borrowers. Each Borrower has reviewed the foregoing waivers with its legal counsel and has knowingly and voluntarily waived its jury trial and other rights following consultation with legal counsel. In the event of litigation, this Agreement may be filed as a written consent to a trial by the court.

12.15. **NO ORAL AGREEMENT.** THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS REPRESENT THE FINAL AGREEMENT BETWEEN THE PARTIES AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS OR SUBSEQUENT ORAL AGREEMENTS BETWEEN THE PARTIES. THERE ARE NO UNWRITTEN AGREEMENTS BETWEEN THE PARTIES.

[Remainder of page intentionally left blank; signatures begin on following page]

IN WITNESS WHEREOF, this Agreement has been executed and delivered as of the date set forth above.

LENDER:

ISAAC CAPITAL FUND I, LLC

By: /s/ Timothy A. Bailey
Timothy A. Bailey, Manager

Address:
2743 G. I. Maddox Parkway
Chatsworth, Georgia 30705
Attn: Timothy A. Bailey
Telecopy: _____

[Signatures continue on the following pages]

ATTEST:

/s/ Tony Isaac
Tony Isaac, Secretary

[SEAL]

ATTEST:

/s/ Edward Hine, Jr.
Edward Hine, Jr., Assistant Secretary

[CORPORATE SEAL]

ATTEST:

/s/ Edward Hine, Jr.
Edward Hine, Jr., Manager-Secretary

[SEAL]

ATTEST:

/s/ Edward Hine, Jr.
Edward Hine, Jr., Manager-Secretary

[SEAL]

BORROWERS:

MARQUIS AFFILIATED HOLDINGS LLC

By: /s/ Jon Isaac
Jon Isaac, President and Chief Executive Officer

Address:
325 East Warm Springs Road, Suite 102
Las Vegas, Nevada 89119
Attn: Jon Isaac
Telecopy: _____

MARQUIS INDUSTRIES, INC.

By: /s/ Timothy A. Bailey
Timothy A. Bailey, Chief Executive Officer

Address:
2743 Highway 76
Chatsworth, Georgia 30705
Attn: Timothy A. Bailey
Telecopy: _____

A-O INDUSTRIES, LLC

By: /s/ Timothy A. Bailey
Timothy A. Bailey, Manager

Address:
2743 Highway 76
Chatsworth, Georgia 30705
Attn: Timothy A. Bailey
Telecopy: _____

ASTRO CARPET MILLS, LLC

By: /s/ Timothy A. Bailey
Timothy A. Bailey, Manager

Address:
2743 Highway 76
Chatsworth, Georgia 30705
Attn: Timothy A. Bailey
Telecopy: _____

[Signatures continue on the following page]

ATTEST:

/s/ Edward Hine, Jr.
Edward Hine, Jr., Manager-Secretary

[SEAL]

CONSTELLATION INDUSTRIES, LLC

By: /s/ Timothy A. Bailey
Timothy A. Bailey, Manager

Address:
2743 Highway 76
Chatsworth, Georgia 30705
Attn: Timothy A. Bailey
Telecopy: _____

ATTEST:

/s/ Edward Hine, Jr.
Edward Hine, Jr., Manager-Secretary

[SEAL]

S F COMMERCIAL PROPERTIES, LLC

By: /s/ Timothy A. Bailey
Timothy A. Bailey, Manager

Address:
2743 Highway 76
Chatsworth, Georgia 30705
Attn: Timothy A. Bailey
Telecopy: _____

SCHEDULE 8.1.1
to
Loan and Security Agreement

BUSINESS LOCATIONS

SCHEDULE 9.1.4
to
Loan and Security Agreement

NAMES AND CAPITAL STRUCTURE

SCHEDULE 9.1.9
to
Loan and Security Agreement

BROKERS

SCHEDULE 9.1.10
to
Loan and Security Agreement

PATENTS, TRADEMARKS, COPYRIGHTS AND LICENSES

SCHEDULE 9.1.13
to
Loan and Security Agreement

ENVIRONMENTAL MATTERS

SCHEDULE 9.1.14
to
Loan and Security Agreement

RESTRICTIVE AGREEMENTS

SCHEDULE 9.1.15
to
Loan and Security Agreement

LITIGATION

SCHEDULE 9.1.17
to
Loan and Security Agreement

PENSION PLAN DISCLOSURES

SCHEDULE 9.1.19
to
Loan and Security Agreement

LABOR RELATIONS

SCHEDULE 10.2.2
to
Loan and Security Agreement

EXISTING LIENS

SCHEDULE 10.2.17
to
Loan and Security Agreement

EXISTING AFFILIATE TRANSACTIONS

EXHIBIT A
to
Loan and Security Agreement

HISTORICAL EBITDA / FIXED CHARGE COVERAGE RATIO CALCULATIONS

(See attached.)

LEASE AGREEMENT

THIS LEASE AGREEMENT ("Lease"), effective on July 6, 2015, by and between 716 River Street Partners, LLC, ("Lessor") and Constellation Industries, LLC, ("Lessee");

WITNESSETH:

1. Premises. Lessor, for and in consideration of the rents to be paid hereunder by Lessee, and the covenants, agreements, and stipulations to be kept and performed by Lessee, has leased and rented, and by these presents does lease and rent unto Lessee, and Lessee hereby agrees to lease and take upon the terms and conditions which hereinafter appear, the following described property, to-wit:

SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF

Together with a building and other improvements located on the above described property (hereinafter referred to as the "Improvements") (said land and Improvements being hereinafter referred to as the "Premises").

2. Term. The initial term of this Lease shall begin on July 6, 2015, (the "Commencement Date") and shall end at midnight on July 31, 2020, unless sooner terminated pursuant to the terms herein set forth or renewed as provided herein.

3. Option to Renew. Lessee shall have the option to renew the lease for three (3) additional terms of five (5) years any time prior to the termination of the lease upon written notification to the Lessor not less than six (6) months prior to the expiration of the term then in effect; provided, however, that Lessee's option to renew the Lease is expressly conditioned on the absence of the existence of any default by Lessee or other ground for termination of this lease specified in Paragraph 14 hereof at the time of the exercise of such option and at the time when such renewal goes into effect.

4. Rental.

(a) Monthly rental for the Premises shall be payable in advance on the first (1st) day of each month during the term hereof, with a prorated rent for the short month following the Commencement Date. The base rental shall be \$18,562.50 per month. In the event that the Lessee elects to exercise any renewal option, the base rent shall be changed by the same percentage change by the change in the Consumer Price Index published by the federal government for the Atlanta metropolitan region between June 30, 2015, and at June 30th at the end of the term being renewed.

(b) The rent shall be absolutely net to Lessor. Lessor shall not be required to make any repairs or improvements to the Premises, nor to maintain the Premises nor to incur any expense in connection therewith. Lessee shall pay as additional rent hereunder all charges against the Premises, including all charges for water, gas, electricity, fuel, light, power and sewer relating to the Premises or used by Lessee or parties claiming under Lessee.

(c) If Lessee does not promptly pay on or within five (5) days after the due date thereof the monthly rental referred to in Paragraph 4(a), Lessee shall pay, in addition to such monthly rental, a late payment premium of five percent (5%) of the monthly rental owing.

(d) If Lessee does not promptly pay on or before the due date thereof any of the charges referred to in Paragraph 4(b), or if Lessee does not promptly pay on or before the date specified in Paragraph 5(a) any Imposition to be paid by Lessee as provided in Paragraph 5(a), or if Lessee does not within the time provided pay any other amount required to be paid by Lessee under the provisions of this Lease, then, ten (10) days after giving written notice to Lessee, if Lessee fails to pay such amounts within the same ten (10) day period, Lessor may, at Lessor's option, pay the same, together with any interest or penalty, and Lessee shall immediately upon demand, pay all such amounts to Lessor, including reasonable attorney's fees, which shall not exceed fifteen percent (15%) of the amount so paid as additional rent, together with interest thereon at the rate of nine percent (9%) per annum, or such higher rate as may from time to time be charged by Lessor and allowable under the laws of Georgia.

(e) If the Commencement Date does not fall on the first day of a calendar month, the rent for the first calendar month of the term of this Lease shall be pro-rated between Lessor and Lessee.

5. Real Estate Taxes and Assessments.

(a) Lessee shall pay or cause to be paid on or before the last day on which they may be paid without penalty or interest all real estate and personal property taxes and assessments and other governmental levies which may be levied or assessed upon the Premises during the term of this Lease, including any tax imposed in lieu of existing ad valorem taxes, all of which are herein collectively called "Impositions"; provided that if any Imposition may be paid in installments, Lessee may pay or cause to be paid each such installment on or before the last day upon which it may be paid without penalty. Lessee shall, promptly following request therefor by Lessor, exhibit to Lessor for examination receipts of payment for all Impositions.

6. Use of Premises. The Premises shall be used only for the businesses of Lessee and for related purposes. The Premises shall not be used for any illegal purpose, nor in any manner to create any nuisance or trespass.

7. Repairs.

(a) Lessee shall, at its own expense, repair and maintain the roof and the structural integrity of the walls to the Premises. Lessee also shall at its own expense, keep and maintain the Premises in good order and repair all damages and Lessee further agrees to return the Premises to Lessor at the expiration or prior termination of this Lease in as good condition and repair as when first received, natural wear and tear alone excepted.

8. Insurance.

(a) So long as this Lease remains in effect, Lessee, at its expense, will maintain, or cause to be maintained with insurers approved by Lessor, which approval shall not be unreasonably withheld, such insurance on the Improvements and in such amounts as may from time to time be reasonably required by Lessor against such insurable hazards as at the time are commonly insured against in the case of premises similarly situated.

(b) All insurance required to be maintained pursuant to Paragraph 8(a) shall: (1) name Lessor and Lessee as their respective interests may appear; (2) provide that all insurance proceeds shall be payable jointly to Lessor and Lessee; and (3) provide that no cancellation thereof shall be effective until at least thirty (30) days after receipt by Lessor and Lessee.

(c) Lessee hereby releases Lessor from any and all liability or responsibility to Lessee or anyone claiming through or under Lessee by way of subrogation or otherwise for any loss or damage to property caused by fire or other casualty against which insurance is to be provided hereunder, unless such fire or other casualty shall have been caused by the fault or negligence of Lessor, or anyone for whom Lessor may be responsible. Lessee agrees that any policy carried which relates to the Premises shall include a clause or endorsement to the effect that such release shall not adversely affect or impair the coverage thereunder or prejudice the right of Lessee to recover thereunder.

(d) Lessee shall upon request deliver proof reasonably satisfactory to Lessor of all insurance policies with respect to the Premises which Lessee is required to maintain pursuant to this Paragraph 8.

9. Destruction or Damage of Premises.

(a) If, any time during the term hereof, the Improvements or any part thereof, shall be damaged or destroyed by fire or other casualty (including any casualty for which insurance coverage was not obtained or obtainable) of any kind or nature, ordinary or extraordinary, foreseen or unforeseen, Lessee, at Lessee's sole cost and expense, and whether or not the insurance proceeds hereinafter referred to, if any, shall be sufficient for the purpose, shall proceed with reasonable diligence (subject to unavoidable delays and a reasonable time for the purpose of adjusting such loss) to repair, alter, restore, replace or rebuild the same as nearly as possible to its value, condition and character immediately prior to such damage or destruction, subject to such changes or alterations as Lessee may elect to make, if such changes or alterations be approved by Lessor, such approval not to be unreasonably withheld. Such repairs, alterations, restoration, replacement or rebuilding, including such changes and alterations as aforementioned and including temporary repairs or the protection of other property pending the completion of any thereof, are sometimes referred to in this Paragraph as the "Work".

(b) All insurance proceeds received by Lessor on account of any damage to or destruction of the Improvements or any part thereof (less the costs, fees, and expenses incurred by the Lessor in the collection thereof, including, without limitation, adjusters' fees and expenses and attorneys' fees and expenses) shall be applied as follows: Unless Lessee is in default hereunder or if any ground for termination specified in Paragraph 14 shall have occurred and be continuing (regardless of any right which Lessee may have, if any, to notice or an opportunity to cure same), such proceeds shall be paid to Lessee or as Lessee may direct, from time to time as the Work progresses, to pay (or reimburse Lessee for) the cost of the Work, upon written request of Lessee accompanied by evidence satisfactory to Lessor that the amount requested has been paid or is then due and payable and is properly a part of such cost, that there are no mechanics' or similar liens, whether inchoate or otherwise, for labor, services or materials theretofore supplied in connection with the Work and that all other bills have been paid and that the balance of said proceeds after making the payment requested will be sufficient to pay the balance of the cost of the Work. Notwithstanding the above, Lessor may disburse such proceeds directly to the persons entitled to same. Upon receipt by Lessor of evidence satisfactory to Lessor that the Work has been completed and the cost thereof paid in full, and that there are no mechanics' or other similar liens, whether inchoate or otherwise, for labor, services or materials supplied in connection therewith, then, unless Lessee is in default hereunder or if any ground for termination specified in Paragraph 14 shall have occurred and be continuing (regardless of any right which Lessee may have, if any, to notice or an opportunity to cure same), the balance, if any, of such proceeds shall be paid to Lessee or as Lessee may direct; otherwise, the net insurance proceeds may be first used to cure such default or such ground for termination if susceptible to being so used, and the balance applied to any future rentals in the order determined by Lessor with any balance thereafter remaining paid to Lessee. If the net insurance proceeds shall be insufficient to pay the entire cost of the Work, Lessee shall supply the amount of such deficiency and shall first apply the same to the payment of the cost of the Work before calling upon Lessor for disbursement of the insurance proceeds as herein provided.

(c) Under no circumstances shall Lessor be obligated to make any payment, disbursement or contribution toward the cost of the Work other than making available such proceeds. If Lessee shall fail to comply with any of the provisions of subsections (a) or (b) above, Lessor shall notify Lessee of such default and thereafter, in addition to any other remedies Lessor may have, may refuse to make any payment hereunder and may apply such proceeds in any order Lessor may in his sole discretion elect, toward the payment of all or any part of the cost of the Work or the discharge of any obligation of Lessee under this Lease.

10. Indemnity. Lessee agrees to indemnify and save harmless the Lessor against all claims relating to damage to persons or property by reason of Lessee's use or occupancy of the Premises, and all expenses incurred by Lessor with respect thereto, including but not limited to attorney's fees and court costs.

11. Governmental Orders. Lessee agrees, at its own expense, promptly to comply with all requirements of any legally constituted public authority.

12. Condemnation. If the whole of Premises, or such portion thereof as will make Premises unusable for the purposes herein leased, be condemned or taken by any legally constituted authority for any public use or purpose, then in either of such events this Lease shall terminate from the time when possession thereof is taken by public authorities, and rent and other charges hereunder shall be accounted for as between Lessor and Lessee as of that date. Such termination, however, shall be without prejudice to the rights of both Lessor and Lessee to recover compensation and damage caused by condemnation from the condemnor.

13. Removal of Fixtures. Lessee may (if not in default hereunder) prior to, and within ten (10) days after the expiration of the term hereof, remove all fixtures and equipment which Lessee has placed in the Premises, provided Lessee repairs all damage to the Premises caused by such removal.

14. Cancellation of Lease. In the event the Lessee shall default in the payment of any rent or any additional rent, when due, and fails to cure said default within ten (10) days after receipt of written notice thereof from Lessor; or if Lessee shall default in any other obligation under this Lease, and shall fail to cure said default within thirty (30) days after receipt of written notice thereof from Lessor, or if Lessee is adjudicated bankrupt; or if a permanent receiver is appointed for Lessee's property and such receiver is not removed within sixty (60) days after written notice from Lessor to Lessee to obtain such removal; or if, whether voluntarily or involuntarily, Lessee takes advantage of any debtor relief proceedings under any present or future law, whereby the rent or any part thereof is, or is proposed to be, or may be, reduced or payment thereof deferred, and such proceeding is not dismissed within sixty (60) days after written notice from Lessor to Lessee to obtain such dismissal; or if Lessee makes an assignment for benefit of creditors; or if Lessee's effects should be levied upon or attached under process against Lessee, which is not satisfied or dissolved within thirty (30) days after written notice from Lessor to Lessee to obtain satisfaction thereof; then and in any of said events, Lessor at its option may at once, or at any time during the continuance of such default or condition, terminate this Lease by written notice to Lessee and this Lease shall end. If Lessee shall be in default in performing any of the terms or provisions of this Lease, other than the provisions requiring the payment of rent or additional rent, and shall fail to cure any such default within thirty (30) days (or such longer period as may be reasonably necessary) after receipt of written notice of default from the other party, Lessor may perform or procure the performance of the obligation of Lessee and all costs incurred in curing such default, including reasonable attorney's fees, shall be payable on demand. After an assignment of this entire Lease, the occurring of any of the foregoing defaults or events shall affect this Lease only if caused by, or happening to, the assignee. Upon such termination by Lessor, Lessee will at once surrender possession of the Premises to Lessor and upon demand of Lessor, will remove all of Lessee's effects therefrom; and Lessor may forthwith re-enter the Premises and repossess Lessor thereof, and remove all persons and effects therefrom, using such force as may be necessary without being guilty to trespass, forcible entry, detainer or other tort.

15. Survival of Lessee's Obligations; Damages.

(a) No expiration or termination of this Lease pursuant to Paragraph 14 or by operation of law or otherwise shall relieve Lessee of its liabilities and obligations hereunder, all of which shall survive such expiration or termination.

(b) In the event of any such expiration or termination, or reletting pursuant to Paragraph 16, Lessee will pay to Lessor all rent, additional rent and other sums required to be paid by Lessee for the entire term of the Lease then in effect and all such payments shall be immediately due and payable. Upon payment of those rents for the entire term of the Lease then in effect, Lessor shall remit to Lessee the net proceeds, if any, of any reletting effected for the account of Lessee pursuant to Paragraph 16 after deducting from such proceeds all Lessor's expenses in connection with such reletting (including, without limitation, all repossession costs, brokerage commissions, legal and accounting expenses, attorney's fees and expenses, employees' expenses, promotional expenses, reasonable alteration costs, and expenses of preparation for such reletting).

16. Reletting by Lessor. If at any time Lessor is entitled to terminate this Lease pursuant to Paragraph 14, Lessor may, at Lessor's option, without prejudice to Lessor's right thereafter to terminate this Lease, enter upon and rent the Premises without advertising and by private negotiations and for any term and upon such rentals and other conditions as Lessor may determine.

17. Entry for Carding, Etc. Lessor may card the Premises "For Rent" or "For Sale" thirty (30) days before the expiration or termination of this Lease. Lessor may enter the Premises at reasonable hours to exhibit same to prospective purchasers or tenants.

18. Quiet Enjoyment. Lessor covenants that so long as Lessee pays the rent and any additional rent hereunder and performs and observes all of the other covenants and provisions hereof, Lessee shall quietly enjoy the Premises for the term of this Lease.

19. Holding over. If Lessee remains in possession of Premises after expiration or termination of the term hereof, with Lessor's acquiescence and without any express agreement of the parties, Lessee shall be a tenant at will at the rent in effect at the end of this Lease, and there shall be no renewal of this Lease by operation of law.

20. Rights Cumulative. All rights, powers and privileges conferred hereunder upon parties hereto shall be cumulative but not restrictive of those given by law or otherwise provided in this Lease.

21. Subordination. Lessee shall, upon the request of Lessor, subordinate its interest in the Premises to any indebtedness now existing or hereafter incurred by Lessor for which the Premises are conveyed as collateral by Lessor and to any renewal, extension, modification, consolidation, or replacement thereof and shall execute such documents as are necessary to effectuate the intent of this paragraph; provided, however, that Lessee's subordination obligation shall be conditioned upon the holder of such indebtedness agreeing to execute a commercially reasonable non-disturbance agreement.

22. Notices. Any notice given pursuant to this Lease shall be in writing and sent by registered mail to:

LESSOR: 716 River Street, LLC
2743 G.I. Maddox Parkway
Chatsworth, GA 30705

LESSEE: Constellation Industries, LLC
2743 G.I. Maddox Parkway
Chatsworth, GA 30705

Either Lessee or Lessor may change their address for notice hereunder by giving the other party hereto written notice of such change in the manner provided herein.

23. Waiver of Rights. No failure of Lessor to exercise any power given Lessor hereunder, or to insist upon strict compliance by Lessee with Lessee's obligations hereunder, and no custom or practice of the parties at variance with the terms hereof shall constitute a waiver of Lessor's right to demand exact compliance with the terms hereof.

24. Time of Essence. Time is of the essence of this Lease.

25. Definitions. "Lessor" as used in this Lease shall include the herein named Lessor and said Lessor's heirs, representatives, assigns and successors in title to Premises. "Lessee" shall include the herein named Lessee and said Lessee's heirs, representatives, successors and assigns. "Lessor" and "Lessee" include male and female, singular and plural, corporation, partnership or individual, as may fit the particular parties.

26. Assignment and Subletting. Lessee may not sublease the Premises, or any part thereof, to others, or assign this Lease or any interest hereunder, without the prior written consent of Lessor. Any assignee of Lessee approved by Lessor shall, at the sole option of Lessor, become directly liable to Lessor for all obligations of Lessee hereunder, but no assignment shall relieve Lessee of any liability hereunder unless otherwise agreed at the time of such assignment. Lessor shall have the option to assign this Lease without prior notice and consent of the Lessee. Notwithstanding the foregoing, Lessee shall have the right, without Lessor's consent, to sublet any portion of the Premises, or to assign this Lease, to any affiliate of Marquis Industries, Inc.

27. Improvements; Alterations. Lessee acknowledges that the improvements are accepted As Is with all faults. Lessee shall be permitted to make alterations to the Premises that do not impact the structural components of the Premises without Lessor's consent.

28. Entire Agreement. This Lease contains the entire agreement of the parties hereto and no representation, inducement, promise or agreement, oral or otherwise, between the parties, not embodied herein, shall be of any force or effect.

29. Captions. The captions provided in this Lease are for reference purposes only and shall not in any way affect the meaning, content or interpretation hereof.

30. Severability. If any provision of this Lease or any paragraph, sentence, clause, phrase or word, or the application thereof in any circumstance, is held invalid or unenforceable, the validity and enforceability of the remainder of this Lease, and of the application of any such circumstances, shall not be affected thereby, it being intended that all rights, powers and privileges of Lessor hereunder shall be enforceable to the fullest extent permitted by law.

31. Purchase Option. Lessee or its assignee shall have an option to purchase the Premises during the first term of the lease. No less than thirty (30) days prior to the date on which Lessee desires to close such purchase, Lessee shall deliver to Lessor written notice of Lessee's election to exercise such purchase option, together with a commercial purchase contract common for the purchase of properties similar to the Premises in the geographic vicinity of the Premises (the "PSA"). The terms of the PSA shall include at a minimum the following: (i) the purchase price shall equal Lessor's book value for the Premises (approximately \$1,550,000) on the Effective Date of this Lease, (ii) all actual or potential claims for indemnification for environmental matters as set forth in this Lease (including those set forth in Section 32) are waived by Lessee and the Lessee Indemnitees (as defined below) and Lessee agrees to hold Lessor harmless from environmental claims from any source; and (iii) all closing costs shall be paid by the parties as is custom for the geographic vicinity of the Premises.

32. Environmental.

(a) As used in this Section 32, the following terms have the following meanings: (i) "Environmental Law" means any present and future federal, state and local laws, statutes, ordinances, rules, regulations and the like, as well as common law, relating to protection of human health or the environment, relating to Hazardous Materials, relating to liability for or costs of other actual or threatened danger to human health or the environment, including without limitation, the following statutes, as amended, any successor thereto, and any regulations promulgated pursuant thereto, and any state or local statutes, ordinances, rules, regulations and the like addressing similar issues: the Comprehensive Environmental Response, Compensation and Liability Act; the Emergency Planning and Community Right-to-Know Act; the Hazardous Substances Transportation Act; the Resource Conservation and Recovery Act (including but not limited to Subtitle I relating to underground storage tanks); the Solid Waste Disposal Act; the Clean Water Act; the Clean Air Act; the Toxic Substances Control Act; the Safe Drinking Water Act; the Occupational Safety and Health Act; the Federal Water Pollution Control Act; the Federal Insecticide, Fungicide and Rodenticide Act; the Endangered Species Act; the National Environmental Policy Act; and the River and Harbors Appropriation Act; (ii) "Hazardous Materials" means petroleum and petroleum products and compounds containing them, including gasoline, diesel fuel and oil, flammable explosives and other materials, radioactive materials (excluding radioactive materials in smoke detectors), polychlorinated biphenyls, lead, asbestos or asbestos containing materials in any form that is or could become friable, hazardous waste, toxic or hazardous substances or other related materials whether in the form of a chemical, element, compound, solution, mixture or otherwise including, but not limited to, those materials defined as "hazardous substances," "extremely hazardous substances," "hazardous chemicals," "hazardous materials," "toxic substances" "solid waste" "toxic chemicals" "air pollutants" "toxic" "pollutants," "hazardous wastes," "extremely hazardous waste," or "restricted hazardous waste" by any Environmental Law or regulated by any Environmental Law in any manner whatsoever, but excluding substances of kinds and in amounts ordinarily and customarily used or stored in properties similar to the Premises for the purposes of cleaning or other maintenance or operations and otherwise in compliance with all Environmental Laws; (iii) "Legal Action" means any claim, suit or proceeding, whether administrative or judicial in nature; (iv) "Losses" shall mean any and all claims, suits, liabilities (including, without limitation, strict liabilities), actions, proceedings, obligations, debts, damages, losses, costs, expenses, fines, penalties, charges, fees, judgments, awards, amounts paid in settlement of whatever kind or nature (including but not limited to legal fees and other costs of defense); and (v) "Release" with respect to any Hazardous Materials includes but is not limited to any release, deposit, discharge, emission, leaking, spilling, seeping, migrating, injecting, pumping, pouring, emptying, escaping, dumping, disposing or other movement of Hazardous Materials.

(b) Lessor covenants and agrees, at the Lessor's sole cost and expense, to protect, defend, indemnify, release and hold Lessee and its officers, directors, shareholders, partners, members, employees, agents, servants, representatives, contractors, subcontractors, affiliates or subsidiaries (collectively, the "Lessee Indemnitees") harmless from and against any and all Losses imposed upon or incurred by or asserted against any Lessee Indemnitees and directly or indirectly arising out of or in any way relating to any one or more of the following: (i) any presence of any Hazardous Materials in, on, above, or under the Premises as of the Commencement Date; (ii) any Release of any Hazardous Materials in, on, above, under or from the Premises prior to the Commencement Date; (iii) any remediation of any Hazardous Materials located in, under, on or above the Premises prior to the Commencement Date, including but not limited to any removal, remedial or corrective action; and (iv) any non-compliance or violations of any Environmental Law (or permits issued pursuant to any Environmental Law) in connection with the Premises or operations thereon prior to the Commencement Date, including but not limited to any failure by Lessor, any person or entity affiliated with the Lessor, and prior owner or occupant of the Premises to comply with any order of any governmental authority in connection with any Environmental Law.

(c) Notwithstanding anything in this Section 32 to the contrary, there shall be no claim for indemnification under Section 32(b) until the Loss, individually or in the aggregate with other Losses and/or any SPA Losses (as defined below), exceeds One Hundred Thousand Dollars (\$100,000), but once that Loss threshold is achieved, all Losses shall be subject to Indemnification from the first dollar. "SPA Losses" means those indemnifiable Losses in respect of indemnification under clause (a) of the opening paragraph of Section 10 of the Purchase Agreement dated the date hereof by and among LiveDeal, Inc., Marquis Affiliated Holdings LLC, Marquis Industries, Inc., Timothy A. Bailey, Larry Heckman, David Stokes, and Mark Rowland (the "SPA").

(d) Lessee shall not make, store, use (except for storage or use incidental to use in its own business, which storage shall not have a cost of removal or clean up in excess of Five Thousand Dollars (\$5,000.00)), treat, release or dispose of any hazardous substances, pollutants or other contaminants on or under the Premises. "Hazardous substances," "pollutants" and other "contaminants," are defined in the federal Comprehensive Environmental Response, Compensation and Liability Act. Lessee shall indemnify and hold Lessor harmless from and against all loss, damages, fines, penalties, liability and expenses (including but not limited to reasonable attorneys' fees and costs of investigation and litigation) caused by or in any manner arising from such substances placed on or under the Premises by Lessee.

(e) The indemnity provisions of this Section 32 shall survive the termination of the Lease.

33. Authority. Lessor and Lessee each represent and warrant to the other that they have legal authority and all necessary consents to enter into, be bound by and perform under this Lease. Lessor represents and warrants that it has good and marketable title to the Premises, and that there are no third parties with any rights or interests in or to use of the Premises.

34. Governing Law and Binding Effect. The interpretation and enforcement of this Lease shall be governed by and construed in accordance with the laws of the State of Georgia and shall bind, and the benefits and advantages shall inure to and be enforceable by the Lessor and Lessee as well as their respective personal representatives, heirs, successors and assigns.

35. Disputes. All disputes between the parties shall be governed by Section 14.08 of the SPA.

36. Counterparts. This Lease may be executed in one or more duplicate counterparts, each of which shall when taken together be deemed to be a fully executed original.

[Rest of this page left intentionally blank.]

Each of the equity holders of Lessor hereby executes this Lease for the sole purpose of hereby unconditionally and irrevocably guaranteeing the indemnification and payment obligations of Lessor hereunder.

/s/ Timothy A. Bailey
Timothy A. Bailey

/s/ Larry Heckman
Larry Heckman

/s/ David Stokes
David Stokes

/s/ Mark Rowland
Mark Rowland

The undersigned indirect parent entity of Lessee hereby executes this Lease for the sole purpose of acknowledging and agreeing to the provisions set forth in Sections 31 and 32 of this Lease.

Marquis Affiliated Holdings LLC

By: /s/ Jon Isaac
Jon Isaac, President and
Chief Executive Officer

EXHIBIT "A"

ALL THAT TRACT OR PARCEL of land lying and being in Land Lot No. 242 in the 14th District and 3rd Section of Gordon County, Georgia, and being more particularly described as follows:

To find the TRUE POINT OF BEGINNING; Commence at the intersection of the centerline of River Street with the centerline of Oak Street; running thence South 01 degree 28 minutes 12 seconds West a distance of 1089.55 feet to an iron pin and the TRUE POINT OF BEGINNING; thence South 02 degrees 53 minutes 05 seconds East a distance of 341.57 feet to an iron pin; thence South 28 degrees 42 minutes 09 seconds East a distance of 34.44 feet to an iron pin; thence South 02 degrees 45 minutes 09 seconds East a distance of 84.14 feet to an iron pin; thence North 86 degrees 55 minutes 51 seconds East a distance of 20.19 feet to an iron pin; thence North 02 degrees 49 minutes 07 seconds West a distance of 42.25 feet to an iron pin located on the western right of way of River Street (having a 100-foot right of way); thence following said right of way of River Street following the arc of a curve to the left an arc distance of 68.71 feet (said arc having a radius of 1959.86 feet and being subtended by a chord bearing South 12 degrees 11 minutes 13 seconds East a chord distance of 68.71 feet to an iron pin; thence leaving said right of way of River Street, running South 86 degrees 03 minutes 17 seconds West a distance of 630.92 feet to an iron pin; thence North 00 degrees 17 minutes 16 seconds West a distance of 489.54 feet to an iron pin; thence North 86 degrees 37 minutes 17 seconds East a distance of 562.50 feet to an iron pin and the POINT OF BEGINNING.

SAID TRACT OR PARCEL containing 6.46 Acres.



CERTIFIED PUBLIC ACCOUNTANTS

CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

As an independent registered public accounting firm, we consent to the inclusion in the Registration Statement on Form S-3 and Form S-8 of our report dated January 13, 2016, relating to the consolidated balance sheets of Live Ventures, Inc. and its subsidiaries (the “Company”) as of September 30, 2015 and 2014, and the related consolidated statements of operations, stockholders’ equity and cash flows for the years then ended, included in the Annual Report on Form 10-K of Live Ventures, Inc. for the year ended September 30, 2015.

/s/ Anton & Chia, LLP
Anton & Chia, LLP

Newport Beach, California
January 13, 2016

CERTIFICATION PURSUANT TO SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002

I, Jon Isaac, certify that:

1. I have reviewed this Annual Report on Form 10-K of LiveDeal, Inc. (the “registrant”);

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant’s other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:

(a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

(b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

(c) Evaluated the effectiveness of the registrant’s disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

(d) Disclosed in this report any change in the registrant’s internal control over financial reporting that occurred during the registrant’s most recent fiscal quarter (the registrant’s fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant’s internal control over financial reporting; and

5. The registrant’s other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant’s auditors and the audit committee of the registrant’s board of directors (or persons performing the equivalent functions):

(a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant’s ability to record, process, summarize and report financial information; and

(b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant’s internal control over financial reporting.

Date: January 13, 2016

/s/ Jon Isaac
Jon Isaac
President and Chief Executive Officer
(Principal Executive Officer)

CERTIFICATION PURSUANT TO SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002

I, Jon Isaac, certify that:

1. I have reviewed this Annual Report on Form 10-K of LiveDeal, Inc. (the “registrant”);

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant’s other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:

(a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

(b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

(c) Evaluated the effectiveness of the registrant’s disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

(d) Disclosed in this report any change in the registrant’s internal control over financial reporting that occurred during the registrant’s most recent fiscal quarter (the registrant’s fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant’s internal control over financial reporting; and

5. The registrant’s other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant’s auditors and the audit committee of the registrant’s board of directors (or persons performing the equivalent functions):

(a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant’s ability to record, process, summarize and report financial information; and

(b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant’s internal control over financial reporting.

Date: January 13, 2016

/s/ Jon Isaac
Jon Isaac
(Principal Financial Officer)

CERTIFICATION PURSUANT TO 18 U.S.C. SECTION 1350

I, Jon Isaac, the President and Chief Executive Officer of LiveDeal, Inc., certify, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that the Annual Report of LiveDeal, Inc. on Form 10-K for the fiscal year ended September 30, 2015 fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934 and that information contained in such Annual Report on Form 10-K fairly presents, in all material respects, the financial condition and results of operations of LiveDeal, Inc.

Date: January 13, 2016

/s/ Jon Isaac
Jon Isaac
President and Chief Executive Officer
(Principal Executive and Financial Officer)

A signed original of this written statement required by Section 906 has been provided to LiveDeal, Inc. and will be retained by LiveDeal, Inc. and furnished to the Securities and Exchange Commission or its staff upon request.