
UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

FORM 8-K

CURRENT REPORT

Pursuant to Section 13 or 15(d) of The Securities Exchange Act of 1934

Date of Report (Date of earliest event reported): May 9, 2016



THE DAVEY TREE EXPERT COMPANY

(Exact name of registrant as specified in its charter)

Ohio
(State or other jurisdiction
of incorporation)

000-11917
(Commission
File Number)

34-0176110
(Employer Identification
Number)

1500 North Mantua Street
P.O. Box 5193
Kent, Ohio 44240
(Address of principal executive offices) (Zip Code)

(330) 673-9511
(Registrant's telephone number, including area code)

Not Applicable
(Former Name or Former Address, if Changed Since Last Report)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

- ☐ Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
 - ☐ Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
 - ☐ Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
 - ☐ Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))
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Item 1.01 Entry into a Material Definitive Agreement

On May 9, 2016, The Davey Tree Expert Company (“Davey Tree”) entered into a Receivables Financing Agreement (the “RFA”), by and among: (i) Davey Tree, as initial Servicer, (ii) Davey Receivables LLC (“Davey Receivables”), an Ohio limited liability company, special purpose entity and wholly-owned subsidiary of Davey Tree, as Borrower, (iii) PNC Bank, National Association, as LC Bank and as Administrative Agent (“PNC”), and (iv) PNC Capital Markets LLC, a Pennsylvania limited liability company, as Structuring Agent.

In addition, on that same date, (i) Davey Tree, (ii) Davey Tree Surgery Company, an Ohio corporation and wholly-owned subsidiary of Davey Tree (“Davey Tree Surgery”) (together with Davey Tree and each as an originator of receivables, the “Originators”) and (iii) Davey Receivables, as the Buyer, entered into a Receivables Purchase Agreement (the “RPA”).

Together, the RFA and RPA establish the primary terms and conditions of an accounts receivable securitization program (the “Securitization”).

Pursuant to the Securitization, the Originators will transfer, by selling or contributing to Davey Receivables, current and future trade receivables and Davey Receivables will, in turn, pledge a first priority security interest in the transferred trade receivables to PNC, as Administrative Agent, for the benefit of PNC, as the LC Bank, in exchange for the LC Bank issuing letters of credit (“LCs”) up to a facility limit of \$60,000,000.

Davey Tree, as Servicer, is independently liable for its own customary representations, warranties, covenants and indemnities. In addition, Davey Tree has guaranteed the performance obligations of the Originators, and will guarantee the obligations of any additional originators or successor servicer that may become party to the Securitization. Davey Tree paid certain structuring fees to the Structuring Agent and Davey Receivables will pay other customary fees to PNC.

Fees payable to PNC under the Securitization include: (a) an LC issuance fee, payable on each settlement date, in the amount of 0.90% per annum on the aggregate amount of all LCs outstanding plus any Outstanding Reimbursement Obligations, as defined in the RFA, and (b) an unused LC fee, payable monthly, equal to (i) 0.35% per annum for each day on which the sum of the total LCs outstanding plus any Outstanding Reimbursement Obligations is greater than or equal to 50% of the facility limit and (ii) 0.45% per annum for each day on which the sum of the total LCs outstanding plus any Outstanding Reimbursement Obligations is less than 50% of the facility limit. If an LC is drawn and PNC is not immediately reimbursed in full for the drawn amount, any Outstanding Reimbursement Obligation will accrue interest at a per annum rate equal to a reserve-adjusted LIBOR (referred to as “LMIR” in the RFA) or, in certain circumstances, a base rate equal to the higher of (i) PNC’s prime rate and (ii) the federal funds rate plus 0.50% and, following any default, 2.00% plus the greater of (a) adjusted LIBOR and (b) a base rate equal to the higher of (i) PNC’s prime rate and (ii) the federal funds rate plus 0.50%.

Each of the RPA and the RFA contains various customary representations and warranties, covenants, and default provisions which provide for the termination and acceleration of the commitments under the Securitization in circumstances including, but not limited to, failure to make payments when due, breach of a representation, warranty or covenant, certain insolvency events or failure to maintain the security interest in the trade receivables, and defaults under other material indebtedness.

The Securitization terminates on May 8, 2017, unless terminated earlier pursuant to the terms of the RFA.

The foregoing description of the Securitization does not purport to be complete and is qualified in its entirety by reference to the full text of each of the RFA and RPA, copies of which are respectively attached hereto as Exhibit 10.1 and Exhibit 10.2 to this Current Report on Form 8-K and are incorporated herein by reference.

Item 2.03 Creation of a Direct Financial Obligation or an Obligation under an Off-Balance Sheet Arrangement of a Registrant

The information set forth in Item 1.01 of this Current Report on Form 8-K is incorporated by reference in this Item 2.03.

Item 9.01 Financial Statements and Exhibits

(d) Exhibits

Exhibit Number	Description to Exhibit
10.1	Receivables Financing Agreement, dated May 9, 2016, between The Davey Tree Expert Company, Davey Receivables LLC, PNC Bank, National Association, and PNC Capital Markets LLC.
10.2	Receivables Purchase Agreement, dated May 9, 2016, between The Davey Tree Expert Company, Davey Tree Surgery Company, and Davey Receivables LLC.

SIGNATURE

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

THE DAVEY TREE EXPERT COMPANY

By: /s/ Joseph R. Paul
Joseph R. Paul
Executive Vice President, Chief Financial
Officer and Secretary

Date: May 11, 2016

RECEIVABLES FINANCING AGREEMENT

Dated as of May 9, 2016

by and among

DAVEY RECEIVABLES LLC,
as Borrower,

PNC BANK, NATIONAL ASSOCIATION,
as LC Bank,

PNC BANK, NATIONAL ASSOCIATION,
as Administrative Agent,

THE DAVEY TREE EXPERT COMPANY,
as initial Servicer

and

PNC CAPITAL MARKETS LLC,
as Structuring Agent

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This RECEIVABLES FINANCING AGREEMENT (as amended, restated, supplemented or otherwise modified from time to time, this “*Agreement*”) is entered into as of May 9, 2016 by and among the following parties:

(i) DAVEY RECEIVABLES LLC, an Ohio limited liability company, as Borrower (together with its successors and assigns, the “*Borrower*”);

(ii) PNC BANK, NATIONAL ASSOCIATION, as LC Bank (in such capacity, together with its successors and assigns in such capacity, the “*LC Bank*”);

(iii) PNC BANK, NATIONAL ASSOCIATION (“*PNC*”), as Administrative Agent;

(iv) THE DAVEY TREE EXPERT COMPANY, an Ohio corporation, in its individual capacity (“*Davey Tree*”) and as initial Servicer (in such capacity, together with its successors and assigns in such capacity, the “*Servicer*”); and

(v) PNC CAPITAL MARKETS LLC, a Pennsylvania limited liability company, as Structuring Agent.

PRELIMINARY STATEMENTS

The Borrower has acquired, and will acquire from time to time, Receivables from the Originator(s) pursuant to the Receivables Purchase Agreement. The Borrower has requested the LC Bank to issue Letters of Credit for the account of the Borrower from time to time, on the terms, and subject to the conditions set forth herein, secured by, among other things, the Receivables.

In consideration of the mutual agreements, provisions and covenants contained herein, the sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

ARTICLE I

DEFINITIONS

Section 1.01. Certain Defined Terms. As used in this Agreement, the following terms shall have the following meanings (such meanings to be equally applicable to both the singular and plural forms of the terms defined):

“*Account Control Agreement*” means each agreement, in form and substance satisfactory to the Administrative Agent, among the Borrower, the Servicer, the Administrative Agent and a Collection Account Bank, governing the terms of the related Collection Accounts that (i) provides the Administrative Agent with control within the meaning of the UCC over the deposit accounts subject to such agreement, and (ii) may not be terminated or canceled by the related Collection Account Bank without the written consent of the Administrative Agent or upon no less than thirty

(30) days prior written notice to the Administrative Agent, as the same may be amended, restated, supplemented or otherwise modified from time to time.

“Adjusted LC Amount” means, at any time of determination, the greater of (i) the LC Amount *minus* the amount of cash collateral held in the LC Collateral Account at such time and (ii) zero (\$0).

“Adjusted LIBOR” means for any day, the interest rate per annum determined by the Administrative Agent by dividing (the resulting quotient rounded upwards, if necessary, to the nearest 1/100th of 1% per annum) (i) the rate per annum equal to the average of the rates at which deposits in Dollars are offered by the LC Bank at approximately 11:00 a.m. (London time) on such day to prime banks in the London interbank market for a one (1) month period, or if such day is not a Business Day, on the immediately preceding Business Day, by (ii) a number equal to 1.00 minus the Euro-Rate Reserve Percentage. The calculation of Adjusted LIBOR may also be expressed by the following formula:

$$\text{Adjusted LIBOR} = \frac{\text{LC Bank's offered rate for one month Dollar loans in the London interbank market}}{1.00 - \text{Euro-Rate Reserve Percentage.}}$$

Adjusted LIBOR shall be adjusted on the effective date of any change in the Euro-Rate Reserve Percentage as of such effective date. The Administrative Agent shall give prompt notice to the Borrower of Adjusted LIBOR as determined or adjusted in accordance herewith (which determination shall be conclusive absent manifest error). Notwithstanding the foregoing, if Adjusted LIBOR as determined herein would be less than zero (0.00), such rate shall be deemed to be zero percent (0.00%) for purposes of this Agreement.

“Administrative Agent” means PNC, in its capacity as contractual representative for the Credit Parties, and any successor thereto in such capacity appointed pursuant to Article XI or Section 14.03(c).

“Administrative Agent's Account” means the account from time to time designated by the Administrative Agent to the Borrower and the Servicer for purposes of receiving payments to or for the account of the Credit Parties hereunder.

“Adverse Claim” means any ownership interest or claim, mortgage, deed of trust, pledge, lien, security interest, hypothecation, charge or other encumbrance or security arrangement of any nature whatsoever, whether voluntarily or involuntarily given, including, but not limited to, any conditional sale or title retention arrangement, and any assignment, deposit arrangement or lease intended as, or having the effect of, security and any filed financing statement or other notice of any of the foregoing (whether or not a lien or other encumbrance is created or exists at the time of the filing); it being understood that any of the foregoing in favor of, or assigned to, the Administrative Agent (for the benefit of the Secured Parties) shall not constitute an Adverse Claim.

“Advisors” has the meaning set forth in Section 14.06(c).

“Affected Person” means each Credit Party.

“Affiliate” means, as to any Person: (a) any Person that, directly or indirectly, is in control of, is controlled by or is under common control with such Person or (b) who is a director or officer: (i) of such Person or (ii) of any Person described in clause (a). For purposes of this definition, control of a Person means the power, direct or indirect: (x) to vote 25% or more of the securities having ordinary voting power for the election of directors or managers of such Person or (y) to direct or cause the direction of the management and policies of such Person, in either case whether by ownership of securities, contract, proxy or otherwise.

“Aggregate Interest” means, at any time of determination, the aggregate accrued and unpaid Interest on the Outstanding Reimbursement Obligations at such time.

“Agreement” has the meaning set forth in the preamble to this Agreement.

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

“Applicable Law” means, with respect to any Person, (x) all provisions of law, statute, treaty, constitution, ordinance, rule, regulation, ordinance, requirement, restriction, permit, executive order, certificate, decision, directive or order of any Governmental Authority applicable to such Person or any of its property and (y) all judgments, injunctions, orders, writs, decrees and awards of all courts and arbitrators in proceedings or actions in which such Person is a party to the extent applicable to such Person or by which any of its property is bound. For the avoidance of doubt, FATCA shall constitute an “Applicable Law” for all purposes of this Agreement.

“Attorney Costs” means and includes all reasonable fees, costs, expenses and disbursements of any law firm or other external counsel and all reasonable disbursements of internal counsel.

“Bankruptcy Code” means the United States Bankruptcy Reform Act of 1978 (11 U.S.C. § 101, *et seq.*), as amended from time to time.

“Base Rate” means, for any day, a fluctuating interest rate per annum as shall be in effect from time to time, which rate shall be at all times equal to the higher of:

(a) the rate of interest in effect for such day as publicly announced from time to time by the LC Bank as its “reference rate” or “prime rate”, as applicable. Such “reference rate” or “prime rate” is set by the LC Bank based upon various factors, including such Person’s 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 announced rate, and is not necessarily the lowest rate charged to any customer; and

(b) 0.50% per annum above the Federal Funds Rate in effect on such day.

“Bill Plan Receivables” means a Receivable that has been fully earned and that is related to a Contract that allows for invoicing in installments over a specified period.

“Borrower” has the meaning specified in the preamble to this Agreement.

“Borrower Indemnified Amounts” has the meaning set forth in Section 13.01(a).

“Borrower Indemnified Party” has the meaning set forth in Section 13.01(a).

“Borrower Obligations” means all present and future indebtedness, reimbursement obligations, and other liabilities and obligations (howsoever created, arising or evidenced, whether direct or indirect, absolute or contingent, or due or to become due) of the Borrower to any Credit Party, Borrower Indemnified Party and/or any Affected Person, arising under or in connection with this Agreement or any other Transaction Document or the transactions contemplated hereby or thereby, and shall include, without limitation, all Reimbursement Obligations and Interest with respect thereto, reimbursement for drawings under the Letters of Credit, all Fees and all other amounts due or to become due under the Transaction Documents (whether in respect of fees, costs, expenses, indemnifications or otherwise), including, without limitation, interest, fees and other obligations that accrue after the commencement of any Insolvency Proceeding with respect to the Borrower (in each case whether or not allowed as a claim in such proceeding).

“Borrower’s Net Worth” means, at any time of determination, an amount equal to (i) the aggregate Outstanding Balance of all Pool Receivables at such time, *minus* (ii) the sum of (A) the Outstanding Reimbursement Obligations at such time, *plus* (B) the Adjusted LC Amount at such time, *plus* (C) the Aggregate Interest at such time, *plus* (D) the aggregate accrued and unpaid Fees at such time, *plus* (E) the aggregate outstanding principal balance of all Subordinated Notes at such time, *plus* (F) the aggregate accrued and unpaid interest on all Subordinated Notes at such time, *plus* (G) without duplication, the aggregate accrued and unpaid other Borrower Obligations at such time.

“Borrowing Base” means, at any time of determination, the amount equal to (a) the Net Receivables Pool Balance at such time, *minus* (b) the Total Reserves at such time.

“Borrowing Base Deficit” means, at any time of determination, the amount, if any, by which (a) the Outstanding Reimbursement Obligations *plus* the Adjusted LC Amount at such time, exceeds (b) the lesser of (i) Borrowing Base at such time and (ii) the Facility Limit at such time.

“Business Day” means any day (other than a Saturday or Sunday) on which: (a) banks are not authorized or required to close in Pittsburgh, Pennsylvania, or New York City, New York and (b) if this definition of “Business Day” is utilized in connection with the LMIR or Adjusted LIBOR, dealings are carried out in the London interbank market.

“Capital Stock” means, with respect to any Person, any and all common shares, preferred shares, interests, participations, rights in or other equivalents (however designated) of such Person’s capital stock, partnership interests, limited liability company interests, membership interests or other equivalent interests and any rights (other than debt securities convertible into or exchangeable for capital stock), warrants or options exchangeable for or convertible into such capital stock or other equity interests.

“Change in Control” means the occurrence of any of the following:

(a) Davey Tree ceases to own, directly, 100% of the issued and outstanding Capital Stock and all other equity interests of the Borrower, free and clear of all Adverse Claims;

(b) Davey Tree ceases to own 100% of the issued and outstanding Capital Stock, membership interests or other equity interests of any Originator (other than Davey Tree); or

(c) (A) the acquisition, or, if earlier, the shareholder or director approval of the acquisition, ownership or voting control, directly or indirectly, beneficially or of record, on or after the Closing Date, by any Person or group (within the meaning of Rule 13d-3 of the SEC under the Securities Exchange Act of 1934, as then in effect), of shares representing more than thirty-three percent (33%) of the aggregate ordinary Voting Power represented by the issued and outstanding capital stock of Davey Tree; (B) the occupation of a majority of the seats (other than vacant seats) on the board of directors of Davey Tree by Persons who were neither (i) nominated by the board of directors of Davey Tree nor (ii) appointed by directors so nominated; or (C) the approval by the shareholders or directors of Davey Tree of a plan of complete liquidation of Davey Tree or an agreement or agreements for the sale or disposition by Davey Tree of all or substantially all of Davey Tree’s assets; *provided* that purchases or other acquisitions of equity interests by, and sales or other transfers of equity interests to or within the Davey ESOP in accordance with its terms shall not be deemed or construed to cause, trigger or otherwise result in a Change in Control.

“Change in Law” means the occurrence, after the Closing Date, of any of the following: (a) the adoption or taking effect of any law, rule, regulation or treaty, (b) any change in any law, rule, regulation or treaty or in the administration, interpretation, implementation or application thereof by any Governmental Authority or (c) the making or issuance of any request, rule, guideline or directive (whether or not having the force of law) by any Governmental Authority; *provided* that notwithstanding anything herein to the contrary, (w) the final rule titled Risk-Based Capital Guidelines; Capital Adequacy Guidelines; Capital Maintenance: Regulatory Capital; Impact of Modifications to Generally Accepted Accounting Principles; Consolidation of Asset-Backed Commercial Paper Programs; and Other Related Issues, adopted by the United States bank regulatory agencies on December 15, 2009, (x) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, guidelines or directives thereunder or issued in connection therewith and (y) all requests, rules, guidelines or directives promulgated by the Bank for International Settlements, the Basel Committee on Banking Supervision (or any successor or similar authority) or

the United States or foreign regulatory authorities, in each case pursuant to the agreements reached by the Basel Committee on Banking Supervision in “Basel III: A Global Regulatory Framework for More Resilient Banks and Banking Systems” (as amended, supplemented or otherwise modified or replaced from time to time), shall in each case be deemed to be a “Change in Law”, regardless of the date enacted, adopted or issued.

“*Closing Date*” means May 9, 2016.

“*Code*” means the Internal Revenue Code of 1986, as amended, reformed or otherwise modified from time to time.

“*Collateral*” has the meaning set forth in Section 5.05(a).

“*Collection Account*” means each account listed on Schedule II to this Agreement (as such schedule may be modified from time to time in connection with the closing or opening of any Collection Account in accordance with the terms hereof) (in each case, in the name of the Borrower) and maintained at a bank or other financial institution acting as a Collection Account Bank pursuant to an Account Control Agreement for the purpose of receiving Collections.

“*Collection Account Bank*” means any of the banks or other financial institutions holding one or more Collection Accounts.

“*Collections*” means, with respect to any Pool Receivable: (a) all funds that are received by any Originator, the Borrower, the Servicer or any other Person on their behalf in payment of any amounts owed in respect of such Pool Receivable (including purchase price, finance charges, interest and all other charges), or applied to amounts owed in respect of such Pool Receivable (including insurance payments and net proceeds of the sale or other disposition of repossessed goods or other collateral or property of the related Obligor or any other Person directly or indirectly liable for the payment of such Pool Receivable and available to be applied thereon), (b) all Deemed Collections with respect to such Pool Receivable, (c) all proceeds of all Related Security with respect to such Pool Receivable, and (d) all other proceeds of such Pool Receivable.

“*Commitment*” means the maximum aggregate amount which the LC Bank is obligated to pay hereunder on account of all drawings under all Letters of Credit, on a combined basis, as set forth on Schedule E, as such amount may be modified in connection with a reduction in the Facility Limit pursuant to Section 3.11. If the context so requires, “Commitment” also refers to the LC Bank’s obligation to issue Letters of Credit hereunder in accordance with this Agreement.

“*Concentration Percentage*” means (i) for any Group A Obligor, 20.00%, (ii) for any Group B Obligor, 15.00%, (iii) for any Group C Obligor, 10.00% and (iv) for any Group D Obligor, 5.00%.

“*Concentration Reserve Percentage*” means, at any time of determination, the largest of: (a) the sum of the five (5) largest Obligor Percentages of the Group D Obligors, (b) the sum of the three (3) largest Obligor Percentages of the Group C Obligors, (c) the sum of the two (2) largest

Obligor Percentage of the Group B Obligors, and (d) the largest Obligor Percentage of the Group A Obligors.

“Contract” means, with respect to any Receivable, any and all contracts, instruments, agreements, leases, invoices, notes or other writings, pursuant to which such Receivable arises or that evidence such Receivable or under which an Obligor becomes or is obligated to make payment in respect of such Receivable.

“Controlled Group” means all members of a controlled group of corporations or other business entities and all trades or businesses (whether or not incorporated) under common control which, together with Davey Tree or any of its Subsidiaries, are treated as a single employer under Section 414 of the Code.

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

“Credit and Collection Policy” means, as the context may require, those receivables credit and collection policies and practices of the Originators in effect on the Closing Date and described in Exhibit E, as modified in compliance with this Agreement.

“Credit Extension” means the issuance of any Letter of Credit or any modification, extension or renewal of any Letter of Credit.

“Credit Party” means the LC Bank and the Administrative Agent.

“Credit Risk Retention Rules” means (i) Section 15G of the Securities Exchange Act of 1934, as amended, and (ii) Articles 404-410 of the EU Capital Requirements Regulation (including Article 122a of the Banking Consolidation Directive), in each case, together with the rules and regulations thereunder.

“Davey ESOP” means The Davey 401KSOP and Employee Stock Ownership Plan (March 1, 2003 Restatement), as amended.

“Davey Tree” has the meaning set forth in the preamble to this Agreement.

“Davey Tree Group” has the meaning set forth in Section 8.03(c).

“Days’ Sales Outstanding” means, for any Fiscal Month, an amount computed as of the last day of such Fiscal Month equal to: (a) the average of the aggregate Outstanding Balance of all Pool

Receivables (other than Unbilled Receivables) as of the last day of each of the three most recent Fiscal Months ended on the last day of such Fiscal Month, divided by (b) an amount equal to (i) the aggregate initial Outstanding Balance of all Pool Receivables (other than Unbilled Receivables) originated by the Originators during the three most recent Fiscal Months ended on the last day of such Fiscal Month, *divided* by (ii) 90.

“*Debt*” means, as to any Person at any time of determination, any and all indebtedness, obligations or liabilities (whether matured or unmatured, liquidated or unliquidated, direct or indirect, absolute or contingent, or joint or several) of such Person for or in respect of: (i) borrowed money, (ii) amounts raised under or liabilities in respect of any bonds, debentures, notes, note purchase, acceptance or credit facility, or other similar instruments or facilities, (iii) reimbursement obligations (contingent or otherwise) under any letter of credit, (iv) any other transaction (including production payments (excluding royalties), installment purchase agreements, forward sale or purchase agreements, capitalized leases and conditional sales agreements) having the commercial effect of a borrowing of money entered into by such Person to finance its operations or capital requirements (but not including accounts payable incurred in the ordinary course of such Person’s business payable on terms customary in the trade), (v) all net obligations of such Person in respect of interest rate or currency hedges or (vi) any Guaranty of any such Debt.

“*Deemed Collections*” has the meaning set forth in Section 4.01(d).

“*Default Ratio*” means the ratio (expressed as a percentage and rounded to the nearest 1/100 of 1%, with 5/1000th of 1% rounded upward) computed as of the last day of each Fiscal Month by dividing: (a) the aggregate Outstanding Balance of all Pool Receivables that became Defaulted Receivables during such Fiscal Month, by (b) the aggregate initial Outstanding Balance of all Pool Receivables (other than Unbilled Receivables) originated by the Originators during the Fiscal Month that is eight (8) Fiscal Months before such month.

“*Defaulted Receivable*” means a Receivable:

(a) as to which any payment, or part thereof, remains unpaid for 241 days or more from the original invoice date for such payment;

(b) as to which any payment, or part thereof, remains unpaid for less than or equal to 240 days from the original invoice date for such payment and consistent with the Credit and Collection Policy, has been or should be written off the applicable Originator’s or the Borrower’s books as uncollectible; or

(c) without duplication, as to which an Insolvency Proceeding shall have occurred with respect to the Obligor thereof or any other Person obligated thereon or owning any Related Security with respect thereto;

provided, however, that in each case above such amount shall be calculated without giving effect to any netting of credits that have not been matched to a particular Receivable for the purposes of aged trial balance reporting.

“Delinquency Ratio” means the ratio (expressed as a percentage and rounded to the nearest 1/100 of 1%, with 5/1000th of 1% rounded upward) computed as of the last day of each Fiscal Month by dividing: (a) the aggregate Outstanding Balance of all Pool Receivables that were Delinquent Receivables on such day, by (b) the aggregate Outstanding Balance of all Pool Receivables on such day.

“Delinquent Receivable” means a Receivable as to which any payment, or part thereof, remains unpaid for 151 days or more from the original invoice date for such payment; *provided, however*, that such amount shall be calculated without giving effect to any netting of credits that have not been matched to a particular Receivable for the purposes of aged trial balance reporting.

“Dilution Horizon Ratio” means, for any Fiscal Month, the ratio (expressed as a percentage and rounded to the nearest 1/100th of 1%, with 5/1000th of 1% rounded upward) computed as of the last day of such Fiscal Month by dividing: (a) the aggregate initial Outstanding Balance of all Pool Receivables (other than Unbilled Receivables) originated by the Originators during the two (2) most recently ended Fiscal Months (including such Fiscal Month), by (b) the Net Receivables Pool Balance as of the last day of such Fiscal Month. The numerator of the Dilution Horizon Ratio may be adjusted by the Administrative Agent upon not less than five (5) Business Days’ notice to the Borrower to reflect such number of Fiscal Months as the Administrative Agent believes best reflects the business practices of the Servicer and the Originators and the actual amount of dilution and Deemed Collections that occur with respect to Pool Receivables based on the weighted average dilution lag calculation completed as part of such audit or field exam.

“Dilution Ratio” means, for any Fiscal Month, the ratio (expressed as a percentage and rounded to the nearest 1/100th of 1%, with 5/1000th of 1% rounded upward), computed as of the last day of each Fiscal Month by dividing: (a) the aggregate amount of Deemed Collections during such Fiscal Month (other than any Deemed Collections with respect to any Receivables that were both (I) generated by an Originator during such Fiscal Month and (II) written off the applicable Originator’s or the Borrower’s books as uncollectible during such Fiscal Month), by (b) the aggregate initial Outstanding Balance of all Pool Receivables (other than Unbilled Receivables) originated by the Originators during the Fiscal Month that is one (1) month prior to such Fiscal Month.

“Dilution Reserve Percentage” means, on any day, the product of (a) the sum of (i) the product of (x) 2.25, multiplied by (y) the arithmetic average of the Dilution Ratios for the twelve most recent Fiscal Months, *plus* (ii) the Dilution Volatility Component, *multiplied by* (b) the Dilution Horizon Ratio.

“Dilution Volatility Component” means, for any Fiscal Month, the product (expressed as a percentage) of: (a) the positive difference, if any, between: (i) the highest Dilution Ratio for any Fiscal Month during the twelve most recent Fiscal Months and (ii) the arithmetic average of the Dilution Ratios for such twelve Fiscal Months *times* (b) a fraction equal to (i) the highest Dilution Ratio for any Fiscal Month during the twelve (12) most recent Fiscal Months, divided by (ii) the arithmetic average of the Dilution Ratios for such twelve (12) Fiscal Months.

“Dollars” and “\$” each mean the lawful currency of the United States of America.

“Drawing Date” has the meaning set forth in Section 3.04(a).

“Eligible Assignee” means (i) the LC Bank or any of its Affiliates and (ii) any other financial institution of recognized standing having capital and surplus in excess of \$500,000,000.

“Eligible Receivable” means, at any time of determination, a Pool Receivable:

(a) the Obligor of which is: (i) a U.S. Obligor; (ii) not a Sanctioned Person; (iii) not an Affiliate of the Borrower, the Servicer or any Originator; and (iv) not the Obligor with respect to Defaulted Receivables with an aggregate Outstanding Balance exceeding 50% of the aggregate Outstanding Balance of all such Obligor’s Pool Receivables;

(b) for which an Insolvency Proceeding shall not have occurred with respect to the Obligor thereof or any other Person obligated thereon or owning any Related Security with respect thereto;

(c) that is denominated and payable only in U.S. dollars in the United States of America, and the Obligor with respect to which has been instructed to remit Collections in respect thereof directly to a Lock-Box or Collection Account in the United States of America;

(d) that is neither a Defaulted Receivable nor a Delinquent Receivable;

(e) in which the Borrower owns good and marketable title, free and clear of any Adverse Claims, and that is freely assignable (including without any consent of the related Obligor or any Governmental Authority);

(f) that does not have a due date which is 31 days or more after the original invoice date of such Receivable;

(g) that satisfies all applicable requirements of the Credit and Collection Policy;

(h) that arises under a duly authorized Contract that is in full force and effect and that is a legal, valid and binding obligation of the related Obligor, enforceable against such Obligor in accordance with its terms, except (i) as such enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting the enforcement of creditors’ rights generally and (ii) as such enforceability may be limited by general principles of equity, regardless of whether such enforceability is considered in a proceeding in equity or at law;

(i) that arises under a Contract for the sale of goods or services entered into on an arm’s length basis in the ordinary course of the applicable Originator’s business;

(j) that is not subject to (i) any dispute, litigation, set-off, counterclaim, hold back, right of rescission or any other defense against the applicable Originator (or any assignee of such Originator) (including, without limitation, customer deposits, advance payments and similar items (including payments related to unearned revenues)), (ii) any Adverse Claim, or (iii) any netting arrangements with the related Obligor, and the Obligor of which holds no right as against the applicable Originator to cause such Originator to repurchase the goods or merchandise, the sale of which shall have given right to such Receivable; *provided, however*, that if such dispute, litigation, set-off, counterclaim, hold back, right of rescission or other defense or Adverse Claim affects only a portion of the Outstanding Balance of such Receivable, then such Receivable may be deemed an Eligible Receivable to the extent of the portion of such Outstanding Balance which is not so affected;

(k) that, together with the Contract related thereto, has not been modified, waived or restructured since its creation, except as permitted pursuant to Section 9.02 of this Agreement;

(l) that, together with the Contract related thereto, conforms in all material respects with all Applicable Laws (including any applicable laws relating to usury, truth in lending, fair credit billing, fair credit reporting, equal credit opportunity, fair debt collection practices and privacy);

(m) for which the Administrative Agent (on behalf of the Secured Parties) shall have a valid and enforceable first priority perfected security interest therein and in the Related Security and Collections with respect thereto, in each case free and clear of any Adverse Claim;

(n) that has been transferred by an Originator (or, in the case of Davey Tree, contributed) to the Borrower pursuant to the Receivables Purchase Agreement, and with respect to which transfer all conditions precedent under the Receivables Purchase Agreement have been met;

(o) that represents amounts earned and payable by the Obligor that are not subject to the performance of additional services by the Originator thereof or the Borrower, and the related goods or merchandise shall have been delivered and/or all services performed other than, in the case of an Eligible Unbilled Receivable, the billing or invoicing of such Receivable; *provided*, that if such Receivable is subject to the performance of additional services, only the portion of such Receivable attributable to such additional services shall be excluded;

(p) with respect to which all consents, licenses, approvals or authorizations of, or registrations or declarations with or notices to, any Governmental Authority or other Person required to be obtained, effected or given by an Originator in connection with the creation of such Receivable, the execution, delivery and performance by such Originator of the related Contract or the assignment thereof under the Receivables Purchase Agreement have been duly obtained, effected or given and are in full force and effect;

(q) that constitutes an “account” or a “general intangible” as defined in the UCC, and that is not evidenced by instruments or chattel paper;

(r) that is an Eligible Unbilled Receivable;

(s) that does not arise from the sale of as-extracted collateral, as such term is used in the UCC;

(t) that (i) does not arise from a sale of accounts made as part of a sale of a business or constitute an assignment for the purpose of collection only, (ii) is not a transfer of a single account made in whole or partial satisfaction of a preexisting indebtedness or an assignment of a right to payment under a contract to an assignee that is also obligated to perform under the contract, and (iii) is not a transfer of an interest in or an assignment of a claim under a policy of insurance; and

(u) that does not relate to the sale of any consigned goods or finished goods which have incorporated any consigned goods into such finished goods.

“Eligible Unbilled Receivable” means, at any time, any Unbilled Receivable if (a) the related Originator has recognized the related revenue on its financial books and records under GAAP and (b) not more than ninety (90) days have expired since the date such Unbilled Receivable arose.

“ERISA” means the Employee Retirement Income Security Act of 1974, as amended from time to time, and any rule or regulation issued thereunder.

“ERISA Affiliate” means, with respect to any Person, any corporation, trade or business which together with the Person is a member of a controlled group of corporations or a controlled group of trades or businesses and would be deemed a “single employer” within the meaning of Sections 414(b), (c), (m) of the Code or Section 4001(b) of ERISA.

“Euro-Rate Reserve Percentage” means, the maximum effective percentage in effect on such day as prescribed by the Board of Governors of the Federal Reserve System (or any successor) for determining the reserve requirements (including without limitation, supplemental, marginal, and emergency reserve requirements) with respect to eurocurrency funding (currently referred to as “Eurocurrency Liabilities”).

“Event of Default” has the meaning specified in Section 10.01. For the avoidance of doubt, any Event of Default that occurs shall be deemed to be continuing at all times thereafter unless and until waived in accordance with Section 14.01.

“Excess Concentration” means, the sum of the following amounts, without duplication:

(a) the sum of the amounts calculated for each of the Obligor equal to the excess (if any) of (i) an amount equal to the aggregate Outstanding Balance of the Eligible Receivables of such Obligor, over (ii) the product of (x) such Obligor’s Concentration

Percentage, *multiplied by* (y) the aggregate Outstanding Balance of all Eligible Receivables then in the Receivables Pool; *plus*

(b) the excess (if any) of (i) the aggregate Outstanding Balance of all Eligible Receivables that are Eligible Unbilled Receivables, over (ii) the product of (x) 30.00%, *multiplied by* (y) the aggregate Outstanding Balance of all Eligible Receivables then in the Receivables Pool; *plus*

(c) the excess (if any) of (i) the aggregate Outstanding Balance of all Eligible Receivables the Obligor of which is the government of the United States of America or any agency, authority, department or instrumentality of the government of the United States of America, over (ii) the product of (x) 5.00%, *multiplied by* (y) the aggregate Outstanding Balance of all Eligible Receivables then in the Receivables Pool; *plus*

(d) the excess (if any) of (i) the aggregate Outstanding Balance of all Eligible Receivables that are Bill Plan Receivables, over (ii) the product of (x) 10.00%, *multiplied by* (y) the aggregate Outstanding Balance of all Eligible Receivables then in the Receivables Pool. Notwithstanding the foregoing, the Administrative Agent may at any time reduce the percentage set forth in this clause (d) (including to zero percent) upon five (5) Business Days' prior written notice to the Borrower.

"*Exchange Act*" means the Securities Exchange Act of 1934, as amended or otherwise modified from time to time.

"*Excluded Receivable*" means, from time to time, each Receivable identified as such on Schedule IV, as such Schedule may be amended, modified or supplemented from time to time with the written consent of the Borrower and the Administrative Agent.

"*Excluded Taxes*" means any of the following Taxes imposed on or with respect to an Affected Person or required to be withheld or deducted from a payment to an Affected Person: (a) Taxes imposed on or measured by net income (however denominated), franchise Taxes and branch profits Taxes, in each case, (i) imposed as a result of such Affected Person being organized under the laws of, or having its principal office or, in the case of the LC Bank, its applicable lending office located in, the jurisdiction imposing such Tax (or any political subdivision thereof) or (ii) that are Other Connection Taxes, (b) in the case of the LC Bank, U.S. federal withholding Taxes imposed on amounts payable to or for the account of the LC Bank with respect to an applicable interest in any Reimbursement Obligations or the Commitment pursuant to a law in effect on the date on which (i) the LC Bank's Commitment arises or (ii) the LC Bank changes its lending office, except in each case to the extent that amounts with respect to such Taxes were payable either to the LC Bank's assignor immediately before the LC Bank became a party hereto or to the LC Bank immediately before it changed its lending office, and (c) any U.S. federal withholding Taxes imposed pursuant to FATCA.

"*Facility Limit*" means \$60,000,000 as reduced from time to time pursuant to Section 3.11, as applicable. References to the unused portion of the Facility Limit shall mean, at any time of

determination, an amount equal to (x) the Facility Limit at such time, *minus* (y) the sum of (i) the Outstanding Reimbursement Obligations *plus* (ii) the LC Amount at such time.

“*FATCA*” means Sections 1471 through 1474 of the Code, as of the date of this Agreement (or any amended or successor version that is substantively comparable and not materially more onerous to comply with) and any current or future regulations or official interpretations thereof and any agreement entered into pursuant to Section 1471(b)(1) of the Code.

“*Federal Funds Rate*” means, for any day, the per annum rate set forth in the weekly statistical release designated as H.15(519), or any successor publication, published by the Federal Reserve Board (including any such successor, “H.15(519)”) for such day opposite the caption “Federal Funds (Effective).” If on any relevant day such rate is not yet published in H.15(519), the rate for such day will be the rate set forth in the daily statistical release designated as the Composite 3:30 p.m. Quotations for U.S. Government Securities, or any successor publication, published by the Federal Reserve Bank of New York (including any such successor, the “Composite 3:30 p.m. Quotations”) for such day under the caption “Federal Funds Effective Rate.” If on any relevant day the appropriate rate is not yet published in either H.15(519) or the Composite 3:30 p.m. Quotations, the rate for such day will be the arithmetic mean as determined by the Administrative Agent of the rates for the last transaction in overnight Federal funds arranged before 9:00 a.m. (New York time) on that day by each of three leading brokers of Federal funds transactions in New York City reasonably selected by the Administrative Agent.

“*Federal Reserve Board*” means the Board of Governors of the Federal Reserve System, or any entity succeeding to any of its principal functions.

“*Fee Letter*” has the meaning specified in Section 3.05(b).

“*Fees*” has the meaning specified in Section 3.05(b).

“*Final Payout Date*” means the date on or after the Termination Date when (i) the Outstanding Reimbursement Obligations and Aggregate Interest have been paid in full, (ii) the LC Amount has been reduced to zero (\$0) and no Letters of Credit issued hereunder remain outstanding and undrawn, (iii) all other Borrower Obligations shall have been paid in full, (iv) all other amounts owing to the Credit Parties and any other Borrower Indemnified Party or Affected Person hereunder and under the other Transaction Documents have been paid in full, and (v) all accrued Servicing Fees have been paid in full.

“*Financial Officer*” of any Person means, the chief executive officer, the chief financial officer, the chief accounting officer, the principal accounting officer, the controller, the treasurer or the assistant treasurer of such Person.

“*Fiscal Month*” means each fiscal month as specified on Exhibit B hereto.

“*GAAP*” means generally accepted accounting principles in the United States of America, consistently applied.

“Governmental Acts” has the meaning set forth in Section 3.09.

“Governmental Authority” means the government of the United States of America or any other nation, or of any political subdivision thereof, whether state or local, and any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government (including any supra-national bodies such as the European Union or the European Central Bank).

“Group A Obligor” means any Obligor with a short-term rating of at least: (a) “A-1” by S&P, or if such Obligor does not have a short-term rating from S&P, a rating of at least “A+” or better by S&P on such Obligor’s long-term senior unsecured and uncredit-enhanced debt securities, and (b) “P-1” by Moody’s, or if such Obligor does not have a short-term rating from Moody’s, a rating of at least “A1” or better by Moody’s on such Obligor’s long-term senior unsecured and uncredit-enhanced debt securities; *provided, however*, if such Obligor is rated by only one of such rating agencies, then such Obligor will be a “Group A Obligor” if it satisfies either clause (a) or clause (b) above. Notwithstanding the foregoing, any Obligor that is a Subsidiary of an Obligor that satisfies the definition of “Group A Obligor” shall be deemed to be a Group A Obligor and shall be aggregated with the Obligor that satisfies such definition for the purposes of determining the “Concentration Reserve Percentage” and clause (a) of the definition of “Excess Concentration” for such Obligors, unless such deemed Obligor separately satisfies the definition of “Group B Obligor”, “Group C Obligor” or “Group D Obligor”, in which case such Obligor shall be separately treated as a Group B Obligor, a Group C Obligor or a Group D Obligor, as the case may be, and shall be aggregated and combined for such purposes with any of its Subsidiaries that are Obligors.

“Group B Obligor” means an Obligor that is not a Group A Obligor, with a short-term rating of at least: (a) “A-2” by S&P, or if such Obligor does not have a short-term rating from S&P, a rating of at least “BBB+” to “A” by S&P on such Obligor’s long-term senior unsecured and uncredit-enhanced debt securities, and (b) “P-2” by Moody’s, or if such Obligor does not have a short-term rating from Moody’s, a rating of at least “Baal” to “A2” by Moody’s on such Obligor’s long-term senior unsecured and uncredit-enhanced debt securities; *provided, however*, if such Obligor is rated by only one of such rating agencies, then such Obligor will be a “Group B Obligor” if it satisfies either clause (a) or clause (b) above. Notwithstanding the foregoing, any Obligor that is a Subsidiary of an Obligor that satisfies the definition of “Group B Obligor” shall be deemed to be a Group B Obligor and shall be aggregated with the Obligor that satisfies such definition for the purposes of determining the “Concentration Reserve Percentage” and the definition of “Excess Concentration” for such Obligors, unless such deemed Obligor separately satisfies the definition of “Group A Obligor”, “Group C Obligor” or “Group D Obligor”, in which case such Obligor shall be separately treated as a Group A Obligor, a Group C Obligor or a Group D Obligor, as the case may be, and shall be aggregated and combined for such purposes with any of its Subsidiaries that are Obligors.

“Group C Obligor” means an Obligor that is not a Group A Obligor or a Group B Obligor, with a short-term rating of at least: (a) “A-3” by S&P, or if such Obligor does not have a short-term rating from S&P, a rating of at least “BBB-” to “BBB” by S&P on such Obligor’s long-term senior

unsecured and uncredit-enhanced debt securities, and (b) “P-3” by Moody’s, or if such Obligor does not have a short-term rating from Moody’s, a rating of at least “Baa3” to “Baa2” by Moody’s on such Obligor’s long-term senior unsecured and uncredit-enhanced debt securities; *provided, however*, if such Obligor is rated by only one of such rating agencies, then such Obligor will be a “Group C Obligor” if it satisfies either clause (a) or clause (b) above. Notwithstanding the foregoing, any Obligor that is a Subsidiary of an Obligor that satisfies the definition of “Group C Obligor” shall be deemed to be a Group C Obligor and shall be aggregated with the Obligor that satisfies such definition for the purposes of determining the “Concentration Reserve Percentage” and the definition of “Excess Concentration” for such Obligors, unless such deemed Obligor separately satisfies the definition of “Group A Obligor”, “Group B Obligor” or “Group D Obligor”, in which case such Obligor shall be separately treated as a Group A Obligor, a Group B Obligor or a Group D Obligor, as the case may be, and shall be aggregated and combined for such purposes with any of its Subsidiaries that are Obligors.

“Group D Obligor” means any Obligor that is not a Group A Obligor, Group B Obligor or Group C Obligor; *provided*, that any Obligor that is not rated by either Moody’s or S&P shall be a Group D Obligor. Notwithstanding the foregoing, any Obligor that is a Subsidiary of an Obligor that satisfies the definition of “Group D Obligor” shall be deemed to be a Group D Obligor and shall be aggregated with the Obligor that satisfies such definition for the purposes of determining the “Concentration Reserve Percentage” and the definition of “Excess Concentration” for such Obligors, unless such deemed Obligor separately satisfies the definition of “Group A Obligor”, “Group B Obligor” or “Group C Obligor”, in which case such Obligor shall be separately treated as a Group A Obligor, a Group B Obligor or a Group C Obligor, as the case may be, and shall be aggregated and combined for such purposes with any of its Subsidiaries that are Obligors.

“Guaranty” of any Person means any obligation of such Person guarantying or in effect guarantying any liability or obligation of any other Person in any manner, whether directly or indirectly, including any such liability arising by virtue of partnership agreements, including any agreement to indemnify or hold harmless any other Person, any performance bond or other suretyship arrangement and any other form of assurance against loss, except endorsement of negotiable or other instruments for deposit or collection in the ordinary course of business.

“Indemnified Taxes” means (a) Taxes, other than Excluded Taxes, imposed on or with respect to any payment made by or on account of any obligation of the Borrower or any of its Affiliates under any Transaction Document and (b) to the extent not otherwise described in clause (a) above, Other Taxes.

“Independent Director” has the meaning set forth in Section 8.03(c).

“Information Package” means a report, in substantially the form of Exhibit F.

“Insolvency Proceeding” means (a) any case, action or proceeding before any court or other Governmental Authority relating to bankruptcy, reorganization, insolvency, liquidation, receivership, dissolution, winding-up or relief of debtors or (b) any general assignment for the benefit of creditors of a Person, composition, marshaling of assets for creditors of a Person, or other,

similar arrangement in respect of its creditors generally or any substantial portion of its creditors, in each of clauses (a) and (b) undertaken under U.S. Federal, state or foreign law, including the Bankruptcy Code.

“Intended Tax Treatment” has the meaning set forth in Section 14.14.

“Interest” means, for any Reimbursement Obligation outstanding during any Settlement Period (or portion thereof), the amount of interest accrued on such Reimbursement Obligation during such Settlement Period (or portion thereof) in accordance with Section 3.05.

“Interest Rate” means, (i) for any day with respect to any Outstanding Reimbursement Obligation, an interest rate per annum equal to LMIR (or if the Base Rate is applicable pursuant to Section 5.04, the Base Rate in effect on such day) and (ii) for any day while an Event of Default has occurred and is continuing shall be an interest rate per annum equal to the sum of 2.00% per annum plus the greater of (i) the Base Rate in effect on such day and (ii) Adjusted LIBOR for such day; *provided, further*, that no provision of this Agreement shall require the payment or permit the collection of Interest in excess of the maximum permitted by Applicable Law; and *provided, further; however*, that Interest in respect of any Outstanding Reimbursement Obligation shall not be considered paid by any distribution to the extent that at any time all or a portion of such distribution is rescinded or must otherwise be returned for any reason.

“Investment Company Act” means the Investment Company Act of 1940, as amended or otherwise modified from time to time.

“Joinder Agreement” means a joinder agreement, in substantially the form of Exhibit C to the Receivables Purchase Agreement (appropriately completed), that has been duly executed by the applicable Originator and the Borrower pursuant to which such Originator becomes a party to the Receivables Purchase Agreement and which sets forth certain terms and conditions applicable to such Originator under such Receivables Purchase Agreement.

“LC Amount” means at any time of determination, the sum of the amounts then available to be drawn under all outstanding Letters of Credit.

“LC Bank” has the meaning set forth in the preamble to this Agreement.

“LC Collateral Account” means the account at any time designated as the LC Collateral Account established and maintained with the LC Bank by the Administrative Agent (for the benefit of the LC Bank), or such other account as may be so designated as such by the Administrative Agent.

“LC Fee Expectation” has the meaning set forth in Section 3.05(b).

“LC Request” means a letter in substantially the form of Exhibit A hereto executed and delivered by the Borrower to the Administrative Agent and the LC Bank pursuant to Section 3.02(a).

“*Letter of Credit*” means any stand-by letter of credit issued by the LC Bank at the request of the Borrower pursuant to this Agreement.

“*Letter of Credit Application*” has the meaning set forth in Section 3.02(a).

“*LMIR*” means for any day, the greater of (x) 0% per annum and (y) the interest rate per annum determined by the Administrative Agent (which determination shall be conclusive absent manifest error) by dividing (i) the one-month Eurodollar rate for U.S. dollar deposits as reported by Bloomberg Finance L.P. and shown on US0001M Screen or any other service or page that may replace such page from time to time for the purpose of displaying offered rates of leading banks for London interbank deposits in United States dollars, as of 11:00 a.m. (London time) on such day, or if such day is not a Business Day, then the immediately preceding Business Day (or if not so reported, then as determined by the Administrative Agent from another recognized source for interbank quotation), in each case, changing when and as such rate changes, by (ii) a number equal to 1.00 minus the Euro-Rate Reserve Percentage on such day. The calculation of LMIR may also be expressed by the following formula:

$$\text{LMIR} = \frac{\text{One-month Eurodollar rate for U.S. Dollars shown on Bloomberg US0001M Screen or appropriate successor}}{1.00 - \text{Euro-Rate Reserve Percentage.}}$$

LMIR shall be adjusted on the effective date of any change in the Euro-Rate Reserve Percentage as of such effective date. Notwithstanding the foregoing, if LMIR as determined herein would be less than zero (0.00), such rate shall be deemed to be zero percent (0.00%) for purposes of this Agreement.

“*Lock-Box*” means each locked postal box with respect to which a Collection Account Bank has executed an Account Control Agreement pursuant to which it has been granted exclusive access for the purpose of retrieving and processing payments made on the Receivables and which is listed on Schedule II (as such schedule may be modified from time to time in connection with the addition or removal of any Lock-Box in accordance with the terms hereof).

“*Loss Horizon Ratio*” means, at any time of determination, the ratio (expressed as a percentage and rounded to the nearest 1/100 of 1%, with 5/1000th of 1% rounded upward) computed by *dividing*: (a) the aggregate initial Outstanding Balance of all Pool Receivables (other than Unbilled Receivables) originated by the Originators during the seven (7) most recent Fiscal Months ending prior to such time of determination, by (b) the Net Receivables Pool Balance as of such date.

“*Loss Reserve Percentage*” means, at any time of determination, the product of (a) 2.25, *multiplied by* (b) the highest arithmetic average of the Default Ratios for any three consecutive Fiscal Months during the twelve most recent Fiscal Months, *multiplied by* (c) the Loss Horizon Ratio.

“Material Adverse Effect” means, relative to any Person (*provided* that if no particular Person is specified, “Material Adverse Effect” shall be deemed to be relative to the Borrower, the Servicer and the Originators, individually and in the aggregate) with respect to any event or circumstance, a material adverse effect on any of the following:

- (a) the assets, operations, business or financial condition of such Person with its consolidated Subsidiaries, taken as a whole;
- (b) the ability of any such Person to perform its obligations under this Agreement or any other Transaction Document to which it is a party;
- (c) the validity or enforceability of this Agreement or any other Transaction Document, or the validity, enforceability or collectability of any material portion of the Pool Receivables;
- (d) the status, perfection, enforceability or priority of the Administrative Agent’s or the Borrower’s security interest in the Collateral; or
- (e) the rights and remedies of any Credit Party under the Transaction Documents or associated with its respective interest in the Collateral.

“Maturity Date” means the earlier to occur of (a) the date occurring twelve (12) months following the Scheduled Termination Date and (b) the date on which the “Termination Date” is declared or deemed to have occurred under Section 10.01.

“Minimum Dilution Reserve Percentage” means, at any time of determination, the product of (a) the average of the Dilution Ratios for the twelve most recent Fiscal Months ended that are covered by the most recently delivered Information Package, *multiplied by* (b) the Dilution Horizon Ratio for the most recent Fiscal Month ended that is covered by the most recently delivered Information Package.

“Monthly Settlement Date” means the 20th day of each calendar month (or if such day is not a Business Day, the next occurring Business Day).

“Moody’s” means Moody’s Investors Service, Inc. and any successor thereto that is a nationally recognized statistical rating organization.

“Multiemployer Plan” means a multiemployer plan as defined in Section 4001(a)(3) of ERISA to which the Borrower, the Servicer, any Originator, the Performance Guarantor or any of their respective ERISA Affiliates (other than one considered an ERISA Affiliate only pursuant to subsection (m) or (o) of Section 414 of the Code) is making or accruing an obligation to make contributions, or has within any of the preceding five plan years made or accrued an obligation to make contributions.

“Net Receivables Pool Balance” means, at any time of determination: (a) the aggregate Outstanding Balance of all Eligible Receivables then in the Receivables Pool, *minus* (b) the Excess Concentration.

“Notice Date” has the meaning set forth in Section 3.02(b).

“Obligor” means, with respect to any Receivable, the Person obligated to make payments pursuant to the Contract relating to such Receivable.

“Obligor Percentage” means, at any time of determination, for each Obligor, a fraction, expressed as a percentage, (a) the numerator of which is the aggregate Outstanding Balance of the Eligible Receivables of such Obligor *minus* the amount (if any) then included in the calculation of the Excess Concentration with respect to such Obligor and (b) the denominator of which is the aggregate Outstanding Balance of all Eligible Receivables at such time.

“OFAC” means the U.S. Department of the Treasury’s Office of Foreign Assets Control.

“Order” has the meaning set forth in Section 3.10.

“Originator” and *“Originators”* means Davey Tree and each other Person identified as such in the Receivables Purchase Agreement, as the same may be modified from time to time by adding new Originators or removing Originators, in each case with the prior written consent of the Administrative Agent.

“Other Connection Taxes” means, with respect to any Affected Person, Taxes imposed as a result of a present or former connection between such Affected Person and the jurisdiction imposing such Tax (other than connections arising from such Affected Person having executed, delivered, become a party to, performed its obligations under, received payments under, received or perfected a security interest under, engaged in any other transaction pursuant to or enforced any Transaction Document, or sold or assigned an interest in any Reimbursement Obligation or LC Amount or Transaction Document).

“Other Taxes” means any and all present or future stamp or documentary Taxes, charges or similar levies or fees arising from any payment made hereunder or from the execution, delivery, filing, recording or enforcement of, or otherwise in respect of, this Agreement, the other Transaction Documents and the other documents or agreements to be delivered hereunder or thereunder, except any such Taxes that are Other Connection Taxes imposed with respect to an assignment.

“Outstanding Balance” means, at any time of determination, with respect to any Receivable, the then outstanding principal balance thereof.

“Outstanding Reimbursement Obligations” means, at any time of determination, any Reimbursement Obligation that has not been paid in full.

“Participant” has the meaning set forth in Section 14.03(a).

“Participant Register” has the meaning set forth in Section 14.03(b).

“PBGC” means the Pension Benefit Guaranty Corporation, or any successor thereto.

“Patriot Act” has the meaning set forth in Section 14.15.

“Pension Plan” means a pension plan as defined in Section 3(2) of ERISA that is subject to Title IV of ERISA with respect to which any Originator, the Borrower or any other member of the Controlled Group may have any liability, contingent or otherwise.

“Performance Guarantor” means Davey Tree.

“Performance Guaranty” means the Performance Guaranty, dated as of the Closing Date, by the Performance Guarantor in favor of the Administrative Agent for the benefit of the Secured Parties, as such agreement may be amended, restated, supplemented or otherwise modified from time to time.

“Person” means an individual, partnership, corporation (including a business trust), joint stock company, trust, unincorporated association, joint venture, limited liability company or other entity, or a government or any political subdivision or agency thereof.

“PNC” has the meaning set forth in the *preamble* to this Agreement.

“Pool Receivable” means a Receivable in the Receivables Pool.

“Portion of Reimbursement Obligation” means the portion of such Reimbursement Obligation being funded or maintained by the LC Bank by reference to a particular interest rate basis.

“Receivable” means any right to payment of a monetary obligation, whether or not earned by performance, owed to any Originator or the Borrower (as assignee of an Originator), whether constituting an account, chattel paper, payment intangible, instrument or general intangible, in each instance arising in connection with the sale of goods that have been or are to be sold or for services rendered or to be rendered, and includes, without limitation, the obligation to pay any finance charges, fees and other charges with respect thereto. Any such right to payment arising from any one transaction, including, without limitation, any such right to payment represented by an individual invoice or agreement, shall constitute a Receivable separate from a Receivable consisting of any such right to payment arising from any other transaction; *provided, however*, that an Excluded Receivable shall not be a “Receivable” hereunder or under the Transaction Documents.

“Receivables Pool” means, at any time of determination, all of the then outstanding Receivables transferred (or purported to be transferred) to the Borrower pursuant to the Receivables Purchase Agreement prior to the Termination Date.

“Receivables Purchase Agreement” means the Receivables Purchase Agreement, dated as of the Closing Date, among the Servicer, the Originators and the Borrower, as such agreement may be amended, amended and restated, supplemented or otherwise modified from time to time.

“Receivables Purchase Termination Event” means an event that causes the *“Termination Date”* to occur under the Receivables Purchase Agreement.

“Reimbursement Obligation” has the meaning set forth in Section 3.04(a).

“Reinvestment” has the meaning set forth in Section 4.01(a).

“Related Security” means, with respect to any Receivable:

(a) all of the Borrower’s and each Originator’s interest in any goods (including returned goods), and documentation of title evidencing the shipment or storage of any goods (including returned goods), the sale of which gave rise to such Receivable;

(b) all instruments and chattel paper that may evidence such Receivable;

(c) all other security interests or liens and property subject thereto from time to time purporting to secure payment of such Receivable, whether pursuant to the Contract related to such Receivable or otherwise, together with all UCC financing statements or similar filings relating thereto;

(d) all of the Borrower’s and each Originator’s rights, interests and claims under the related Contracts and all guaranties, indemnities, insurance and other agreements (including the related Contract) or arrangements of whatever character from time to time supporting or securing payment of such Receivable or otherwise relating to such Receivable, whether pursuant to the Contract related to such Receivable or otherwise; and

(e) all of the Borrower’s rights, interests and claims under the Receivables Purchase Agreement and the other Transaction Documents.

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

“Reportable Event” means any reportable event as defined in Section 4043(c) of ERISA or the regulations issued thereunder with respect to a Pension Plan (other than a Pension Plan maintained by an ERISA Affiliate which is considered an ERISA Affiliate only pursuant to subsection (m) or (o) of Section 414 of the Code).

“Representatives” has the meaning set forth in Section 14.06(c).

“Required Capital Amount” means \$6,000,000.

“Restricted Payments” has the meaning set forth in Section 8.01(s).

“S&P” means Standard & Poor’s Rating Services, a Standard & Poor’s Financial Services LLC business, and any successor thereto that is a nationally recognized statistical rating organization.

“Sanctioned Country” means a country subject to a sanctions program identified on the list maintained by OFAC and available at: http://www.treasury.gov/resource_center/sanctions/Programs/Pages/Programs.aspx, or as otherwise published from time to time.

“Sanctioned Person” means (i) A person named on the list of “Specially Designated Nationals” or “Blocked Persons” maintained by OFAC available at: http://www.treasury.gov/resource_center/sanctions/SDNList/Pages/default.aspx, or as otherwise published from time to time, (ii) (A) an agency of the government of a Sanctioned Country, (B) an organization controlled by a Sanctioned Country or (C) a person resident in a Sanctioned Country, to the extent subject to a sanctions program administered by OFAC, or (iii) any individual person, group, regime, entity or thing listed or otherwise recognized as a specially designated, prohibited, sanctioned or debarred person, group, regime, entity or thing, or subject to any limitations or prohibitions (including but not limited to the blocking of property or rejection of transactions), under any Anti-Terrorism Law.

“Scheduled Termination Date” means May 8, 2017.

“SEC” means the U.S. Securities and Exchange Commission or any governmental agencies substituted therefor.

“Secured Parties” means each Credit Party, each Borrower Indemnified Party and each Affected Person.

“Securities Act” means the Securities Act of 1933, as amended or otherwise modified from time to time.

“Servicer” has the meaning set forth in the preamble to this Agreement.

“Servicer Indemnified Amount” has the meaning set forth in Section 13.02(a).

“Servicer Indemnified Party” has the meaning set forth in Section 13.02(a).

“Servicing Fee” means the fee referred to in Section 9.06(a) of this Agreement.

“Servicing Fee Rate” means the rate referred to in Section 9.06(a) of this Agreement.

“Settlement Date” means (i) prior to an Event of Default that is continuing or the occurrence of the Termination Date, the Monthly Settlement Date and (ii) during the occurrence and continuance of an Event of Default or on and after the Termination Date, each day selected from time to time by the Administrative Agent (with the consent or at the direction of the LC Bank) (it being understood that the Administrative Agent (with the consent or at the direction of the LC Bank) may select such Settlement Date to occur as frequently as daily), or, in the absence of such selection, the Monthly Settlement Date.

“Settlement Period” means: (a) before the Termination Date: (i) initially the period commencing on the Closing Date and ending on (but not including) the next Monthly Settlement Date and (ii) thereafter, each period commencing on such Monthly Settlement Date and ending on (but not including) the next Monthly Settlement Date and (b) on and after the Termination Date, such period (including a period of one day) as shall be selected from time to time by the Administrative Agent (with the consent or at the direction of the LC Bank) or, in the absence of any such selection, each period of thirty (30) days from the last day of the preceding Settlement Period.

“Solvent” means, with respect to any Person and as of any particular date, (i) the present fair market value (or present fair saleable value) of the assets of such Person is not less than the total amount required to pay the probable liabilities of such Person on its total existing debts and liabilities (including contingent liabilities) as they become absolute and matured, (ii) such Person is able to realize upon its assets and pay its debts and other liabilities, contingent obligations and commitments as they mature and become due in the normal course of business, (iii) such Person is not incurring debts or liabilities beyond its ability to pay such debts and liabilities as they mature and (iv) such Person is not engaged in any business or transaction, and is not about to engage in any business or transaction, for which its property would constitute unreasonably small capital after giving due consideration to the prevailing practice in the industry in which such Person is engaged.

“Structuring Agent” means PNC Capital Markets LLC, a Pennsylvania limited liability company.

“Subordinated Note” has the meaning set forth in the Receivables Purchase Agreement.

“Sub-Servicer” has the meaning set forth in Section 9.01(d).

“Subsidiary” means, as to any Person, a corporation, partnership, limited liability company or other entity of which shares of stock of each class or other interests having ordinary voting power (other than stock or other interests having such power only by reason of the happening of a contingency) to elect a majority of the Board of Directors or other managers of such entity are at the time owned, or management of which is otherwise controlled: (a) by such Person, (b) by one or more Subsidiaries of such Person or (c) by such Person and one or more Subsidiaries of such Person.

“*Taxes*” means any and all present or future taxes, levies, imposts, duties, deductions, charges or withholdings imposed by any Governmental Authority and all interest, penalties, additions to tax and any similar liabilities with respect thereto.

“*Termination Date*” means the earliest to occur of (a) the Scheduled Termination Date, (b) the date on which the “Termination Date” is declared or deemed to have occurred under Section 10.01 and (c) the date selected by the Borrower on which all Commitments have been reduced to zero pursuant to Section 3.11.

“*Total Adjusted Usage*” means, at any time of determination, the sum of (x) the Outstanding Reimbursement Obligations *plus* (y) the Adjusted LC Amount at such time.

“*Total Reserves*” means, at any time of determination, the product of (a) the sum of (i) the Yield Reserve Percentage, *plus* (ii) the greater of (x) the sum of the Concentration Reserve Percentage *plus* the Minimum Dilution Reserve Percentage and (y) the sum of the Dilution Reserve Percentage *plus* the Loss Reserve Percentage, *multiplied by* (b) the Net Receivables Pool Balance on such day.

“*Total Usage*” means, at any time of determination, the sum of (x) the Outstanding Reimbursement Obligations *plus* (y) the LC Amount at such time.

“*Transaction Documents*” means this Agreement, the Receivables Purchase Agreement and each Joinder Agreement thereto, the Account Control Agreements, the Fee Letter, each Subordinated Note, the Performance Guaranty, the Letter of Credit Applications and all other certificates, instruments, UCC financing statements, reports, notices, agreements and documents executed or delivered under or in connection with this Agreement, in each case as the same may be amended, supplemented or otherwise modified from time to time in accordance with this Agreement.

“*UCC*” means the Uniform Commercial Code as from time to time in effect in the applicable jurisdiction.

“*Unbilled Receivable*” means, at any time, any Receivable as to which the invoice or bill with respect thereto has not yet been sent to the Obligor thereof.

“*Unmatured Event of Default*” means an event that but for notice or lapse of time or both would constitute an Event of Default.

“*U.S. Obligor*” means an Obligor that is a corporation or other business organization and is organized under the laws of the United States of America (or of a United States of America territory, district, state, commonwealth, or possession, including, without limitation, Puerto Rico and the U.S. Virgin Islands) or any political subdivision thereof.

“*U.S. Tax Compliance Certificate*” has the meaning set forth in Section 5.03(f)(ii)(B)(3).

“*Voting Power*” shall mean, with respect to any Person, the exclusive ability to control, through the ownership of shares of capital stock, partnership interests, membership interests or otherwise, the election of members of the board of directors or other similar governing body of such Person, and the holding of a designated percentage of Voting Power of a Person means the ownership of shares of capital stock, partnership interests, membership interests or other interests of such Person sufficient to control exclusively the election of that percentage of the members of the board of directors or similar governing body of such Person.

“*Withdrawal Liability*” means liability to a Multiemployer Plan as a result of a complete or partial withdrawal from such Multiemployer Plan, as such terms are defined in Part I of Subtitle E of Title IV of ERISA.

“*Yield Reserve Percentage*” means, at any time of determination:

$$\frac{1.50 \times \text{DSO} \times (\text{BR} + \text{SFR})}{360}$$

where:

BR = the Base Rate at such time;
DSO = the Days’ Sales Outstanding for the most recently ended
Fiscal Month; and
SFR = the Servicing Fee Rate.

Section 1.02. Other Interpretative Matters. All accounting terms not specifically defined herein shall be construed in accordance with GAAP. All terms used in Article 9 of the UCC in the State of New York and not specifically defined herein, are used herein as defined in such Article 9. Unless otherwise expressly indicated, all references herein to “Article,” “Section,” “Schedule,” “Exhibit” or “Annex” shall mean articles and sections of, and schedules, exhibits and annexes to, this Agreement. For purposes of this Agreement, the other Transaction Documents and all such certificates and other documents, unless the context otherwise requires: (a) references to any amount as on deposit or outstanding on any particular date means such amount at the close of business on such day; (b) the words “hereof,” “herein” and “hereunder” and words of similar import refer to such agreement (or the certificate or other document in which they are used) as a whole and not to any particular provision of such agreement (or such certificate or document); (c) references to any Section, Schedule or Exhibit are references to Sections, Schedules and Exhibits in or to such agreement (or the certificate or other document in which the reference is made), and references to any paragraph, subsection, clause or other subdivision within any Section or definition refer to such paragraph, subsection, clause or other subdivision of such Section or definition; (d) the term “including” means “including without limitation”; (e) references to any Applicable Law refer to that Applicable Law as amended from time to time and include any successor Applicable Law; (f) references to any agreement refer to that agreement as from time to time amended, restated or supplemented or as the terms of such agreement are waived or modified in accordance with its terms; (g) references to any Person include that Person’s permitted successors and assigns;

(h) headings are for purposes of reference only and shall not otherwise affect the meaning or interpretation of any provision hereof; (i) unless otherwise provided, in the calculation of time from a specified date to a later specified date, the term “from” means “from and including”, and the terms “to” and “until” each means “to but excluding”; (j) terms in one gender include the parallel terms in the neuter and opposite gender; (k) references to any amount as on deposit or outstanding on any particular date means such amount at the close of business on such day, and (l) the term “or” is not exclusive.

ARTICLE II

[RESERVED]

ARTICLE III

LETTER OF CREDIT FACILITY

Section 3.01. Letters of Credit. (a) Subject to the terms and conditions hereof and the satisfaction of the applicable conditions set forth in Article VI, the LC Bank shall issue or cause the issuance of Letters of Credit on behalf of the Borrower (and, if applicable, on behalf of, or for the account of, an Originator or an Affiliate of such Originator in favor of such beneficiaries as such Originator or an Affiliate of such Originator may elect with the consent of the Borrower); *provided, however*, that the LC Bank will not be required to issue or cause to be issued any Letters of Credit to the extent that after giving effect thereto:

- (i) the Total Usage would exceed the Facility Limit at such time; or
- (ii) the Total Adjusted Usage would exceed the Borrowing Base at such time.

(b) Interest shall accrue on all amounts drawn under Letters of Credit for each day on and after the applicable Drawing Date so long as such drawn amounts shall have not been reimbursed to the LC Bank in accordance with Section 3.05(c).

Section 3.02. Issuance of Letters of Credit. (a) The Borrower may request the LC Bank, upon three (3) Business Days' prior written notice submitted on or before 1:00 p.m. (New York City time), to issue a Letter of Credit by delivering to the Administrative Agent and the LC Bank, the LC Bank's form of Letter of Credit Application (the “*Letter of Credit Application*”), substantially in the form of Exhibit D attached hereto and an LC Request, in each case completed to the satisfaction of the Administrative Agent and the LC Bank; and such other certificates, documents and other papers and information as the Administrative Agent or the LC Bank may reasonably request. The LC Bank agrees to issue amendments to the Letters of Credit increasing the amount, or extending the expiration date, thereof at the request of the Borrower subject to the conditions of Section 6.02 and the other terms of this Article III.

(b) Each Letter of Credit shall, among other things, (i) provide for the payment of sight drafts or other written demands for payment when presented for honor thereunder in accordance

with the terms thereof and when accompanied by the documents described therein and (ii) have an expiry date not later than twelve (12) months after such Letter of Credit's date of issuance, extension or renewal, as the case may be, and in no event later than twelve (12) months after the Scheduled Termination Date. The terms of each Letter of Credit may include customary "evergreen" provisions providing that such Letter of Credit's expiry date shall automatically be extended for additional periods not to exceed twelve (12) months unless, not less than thirty (30) days (or such longer period as may be specified in such Letter of Credit) (the "*Notice Date*") prior to the applicable expiry date, the LC Bank delivers written notice to the beneficiary thereof declining such extension; *provided, however*, that if (x) any such extension would cause the expiry date of such Letter of Credit to occur after the date that is twelve (12) months after the Scheduled Termination Date or (y) the LC Bank determines that any condition precedent (including, without limitation, those set forth in Sections 3.01 and Article VI) to issuing such Letter of Credit hereunder are not satisfied (other than any such condition requiring the Borrower to submit an LC Request or Letter of Credit Application in respect thereof), then the LC Bank, in the case of clause (x) above, may or, in the case of clause (y) above, shall, use reasonable efforts in accordance with (and to the extent permitted by) the terms of such Letter of Credit to prevent the extension of such expiry date (including notifying the Borrower and the beneficiary of such Letter of Credit in writing prior to the Notice Date that such expiry date will not be so extended). Each Letter of Credit shall be subject either to the Uniform Customs and Practice for Documentary Credits (2007 Revision), International Chamber of Commerce Publication No. 600, and any amendments or revisions thereof adhered to by the LC Bank or the International Standby Practices (ISP98 - International Chamber of Commerce Publication Number 590), and any amendments or revisions thereof adhered to by the LC Bank, as determined by the LC Bank.

Section 3.03. Requirements For Issuance of Letters of Credit. The Borrower shall authorize and direct the LC Bank to name the Borrower, an Originator or an Affiliate of an Originator as the "Applicant" or "Account Party" of each Letter of Credit.

Section 3.04. Disbursements, Reimbursement. (a) In the event of any request for a drawing under a Letter of Credit by the beneficiary or transferee thereof, the LC Bank will promptly notify the Administrative Agent and the Borrower of such request. The Borrower shall reimburse (such obligation to reimburse the LC Bank shall sometimes be referred to as a "*Reimbursement Obligation*") the LC Bank prior to noon (New York City time), on each date that an amount is paid by the LC Bank under any Letter of Credit (each such date, a "*Drawing Date*") in an amount equal to the amount so paid by the LC Bank if the Borrower shall have received notice of such payment prior to 10:00 a.m. (New York City time), on such date, or, if such notice has not been received by the Borrower prior to such time on such date, then not later than noon (New York City time), on the Business Day immediately following the day that the Borrower receives such notice, *provided* that failure to receive any such notice shall not affect the Borrower's obligation to honor its Reimbursement Obligation on a timely basis and pay any interest that accrues upon failure to do so. The Borrower shall honor its Reimbursement Obligation *first*, from funds on deposit in the LC Collateral Account, if any, and, *second*, from its own funds. Any notice given by the LC Bank pursuant to this Section may be oral if promptly confirmed in writing; *provided* that the lack of such a prompt written confirmation shall not affect the conclusiveness or binding effect of such oral notice.

(b) If any Letters of Credit are outstanding and undrawn on the Termination Date, without limiting any rights or remedies contained in Section 10.01 or any other Transaction Document, the LC Collateral Account shall be funded from Collections (or, in the Borrower's sole discretion, by other funds available to the Borrower) in an amount equal to the aggregate undrawn face amount of such Letters of Credit plus all related fees to accrue through the stated expiration dates thereof (such fees to accrue, as reasonably estimated by the LC Bank, the "*LC Fee Expectation*").

Section 3.05. Maturity Date; Interest and Fees; Reimbursement Obligations. (a) On the Maturity Date, the Total Usage shall be zero (\$0) and all outstanding Borrower Obligations shall be paid in full.

(b) On each Settlement Date, the Borrower shall, in accordance with the terms and priorities for payment set forth in Section 4.01, pay to the LC Bank, the Structuring Agent and the Administrative Agent certain fees (collectively, the "*Fees*") in the amounts set forth in the fee letter agreements from time to time entered into, among the Borrower, the LC Bank and/or the Administrative Agent and the Structuring Agent (each such fee letter agreement, as amended, restated, supplemented or otherwise modified from time to time, collectively being referred to herein as the "*Fee Letter*").

(c) Each outstanding Reimbursement Obligation shall accrue interest on each day when such Reimbursement Obligation remains outstanding at the Interest Rate then applicable thereto. The Borrower shall pay all Interest and Fees accrued during each Settlement Period on the immediately following Settlement Date in accordance with the terms and priorities for payment set forth in Section 4.01.

(d) The LC Bank shall record in its records, the date and amount of each Reimbursement Obligation hereunder, the interest rate with respect thereto, the Interest accrued thereon and each payment thereof. Subject to Section 14.03(b), such records shall be conclusive and binding absent manifest error. The failure to so record any such information or any error in so recording any such information shall not, however, limit or otherwise affect the obligations of the Borrower hereunder or under the other Transaction Documents to repay the Reimbursement Obligations, together with all Interest accruing thereon and all other Borrower Obligations.

Section 3.06. Documentation. The Borrower agrees to be bound by the terms of the Letter of Credit Application and by the LC Bank's interpretations of any Letter of Credit issued for the Borrower and by the LC Bank's written regulations and customary practices relating to letters of credit, though the LC Bank's interpretation of such regulations and practices may be different from the Borrower's own. In the event of a conflict between the Letter of Credit Application and this Agreement, this Agreement shall govern. The LC Bank shall not be liable for any error, negligence and/or mistakes, whether of omission or commission, in following the Borrower's instructions or those contained in the Letters of Credit or any modifications, amendments or supplements thereto.

Section 3.07. Determination to Honor Drawing Request. In determining whether to honor any request for drawing under any Letter of Credit by the beneficiary thereof, the LC Bank shall

be responsible only to determine that the documents and certificates required to be delivered under such Letter of Credit have been delivered and that they comply on their face with the requirements of such Letter of Credit and that any other drawing condition appearing on the face of such Letter of Credit has been satisfied in the manner so set forth.

Section 3.08. Nature of Reimbursement Obligations. The obligations of the Borrower to reimburse the LC Bank upon a draw under a Letter of Credit, shall be absolute, unconditional and irrevocable, and shall be performed strictly in accordance with the terms of this Agreement and under all circumstances, including the following circumstances:

(i) any set-off, counterclaim, recoupment, defense or other right which the Borrower may have against any Credit Party, the Servicer, an Originator, the Performance Guarantor or any other Person for any reason whatsoever;

(ii) the failure of the Borrower or any other Person to comply with the conditions set forth in this Agreement for requests for Letters of Credit or otherwise;

(iii) any lack of validity or enforceability of any Letter of Credit or any set-off, counterclaim, recoupment, defense or other right which the Borrower, the Performance Guarantor, the Servicer, an Originator or any Affiliate thereof on behalf of which a Letter of Credit has been issued may have against any Credit Party or any other Person for any reason whatsoever;

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

(v) the lack of power or authority of any signer of, or lack of validity, sufficiency, accuracy, enforceability or genuineness of, any draft, demand, instrument, certificate or other document presented under any Letter of Credit, or any such draft, demand, instrument, certificate or other document proving to be forged, fraudulent, invalid, defective or insufficient in any respect or any statement therein being untrue or inaccurate in any respect, even if the Administrative Agent or the LC Bank has been notified thereof;

(vi) payment by the LC Bank under any Letter of Credit against presentation of a demand, draft or certificate or other document which does not comply with the terms of such Letter of Credit;

(vii) the solvency of, or any acts or omissions by, any beneficiary of any Letter of Credit, or any other Person having a role in any transaction or obligation relating to a Letter of Credit, or the existence, nature, quality, quantity, condition, value or other characteristic of any property or services relating to a Letter of Credit;

(viii) any failure by the LC Bank or any of the LC Bank's Affiliates to issue any Letter of Credit in the form requested by the Borrower;

(ix) any Material Adverse Effect;

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

(xi) the occurrence or continuance of an Insolvency Proceeding with respect to the Borrower, the Performance Guarantor, any Originator or any Affiliate thereof;

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

(xiii) the fact that this Agreement or the obligations of the Borrower or the Servicer hereunder shall have been terminated; and

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

Section 3.09. Indemnity. In addition to other amounts payable hereunder, the Borrower hereby agrees to protect, indemnify, pay and save harmless the Administrative Agent, the LC Bank, each other Credit Party and each of the LC Bank's Affiliates that have issued a Letter of Credit from and against any and all claims, demands, liabilities, damages, taxes, penalties, interest, judgments, losses, costs, charges and expenses (including Attorney Costs) which any Credit Party or any of their respective Affiliates may incur or be subject to as a consequence, direct or indirect, of the issuance of any Letter of Credit, except to the extent resulting from (a) the gross negligence or willful misconduct of the party to be indemnified as determined by a final non-appealable judgment of a court of competent jurisdiction or (b) the wrongful dishonor by the LC Bank of a proper demand for payment made under any Letter of Credit, except if such dishonor resulted from any act or omission, whether rightful or wrongful, of any present or future de jure or de facto Governmental Authority (all such acts or omissions herein called "*Governmental Acts*").

Section 3.10. Liability for Acts and Omissions. As between the Borrower, on the one hand, and the Credit Parties, on the other, the Borrower assumes all risks of the acts and omissions of, or misuse of any Letter of Credit by, the respective beneficiaries of such Letter of Credit. In furtherance and not in limitation of the foregoing, no Credit Party shall be responsible for: (i) the form, validity, sufficiency, accuracy, genuineness or legal effect of any document submitted by any party in connection with the application for an issuance of any such Letter of Credit, even if it should in fact prove to be in any or all respects invalid, insufficient, inaccurate, fraudulent or forged (even if

any Credit Party shall have been notified thereof); (ii) the validity or sufficiency of any instrument transferring or assigning or purporting to transfer or assign any such Letter of Credit or the rights or benefits thereunder or proceeds thereof, in whole or in part, which may prove to be invalid or ineffective for any reason; (iii) the failure of the beneficiary of any such Letter of Credit, or any other party to which such Letter of Credit may be transferred, to comply fully with any conditions required in order to draw upon such Letter of Credit or any other claim of the Borrower against any beneficiary of such Letter of Credit, or any such transferee, or any dispute between or among the Borrower and any beneficiary of any Letter of Credit or any such transferee; (iv) errors, omissions, interruptions or delays in transmission or delivery of any messages, by mail, electronic mail, cable, telegraph, telex, facsimile or otherwise, whether or not they be in cipher; (v) errors in interpretation of technical terms; (vi) any loss or delay in the transmission or otherwise of any document required in order to make a drawing under any such Letter of Credit or of the proceeds thereof; (vii) the misapplication by the beneficiary of any such Letter of Credit of the proceeds of any drawing under such Letter of Credit; or (viii) any consequences arising from causes beyond the control of the Credit Parties, including any Governmental Acts, and none of the above shall affect or impair, or prevent the vesting of, any of the LC Bank's rights or powers hereunder. In no event shall the Credit Parties or their respective Affiliates, be liable to the Borrower or any other Person for any indirect, consequential, incidental, punitive, exemplary or special damages or expenses (including without limitation Attorney Costs), or for any damages resulting from any change in the value of any property relating to a Letter of Credit.

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

In furtherance and extension and not in limitation of the specific provisions set forth above, any action taken or omitted by the LC Bank under or in connection with any Letter of Credit issued

by it or any documents and certificates delivered thereunder, if taken or omitted in good faith and without gross negligence or willful misconduct, as determined by a final non-appealable judgment of a court of competent jurisdiction, shall not put the LC Bank under any resulting liability to the Borrower, any Credit Party or any other Person.

Section 3.11. Changes in Facility Limit. (a) The Borrower may, at any time upon at least thirty (30) days' prior written notice to the Administrative Agent and the LC Bank, terminate the Facility Limit in whole or ratably reduce the Facility Limit in part. Each partial reduction in the Facility Limit shall be in a minimum aggregate amount of \$5,000,000 and shall be an integral multiple of \$1,000,000 and no such partial reduction shall reduce the Facility Limit to an amount less than \$40,000,000. No such reduction of the Facility Limit may occur if such reduction would result in the LC Amount exceeding the Facility Limit.

(b) In connection with any reduction of the Facility Limit, the Borrower shall remit to the Administrative Agent (i) instructions regarding such reduction, (ii) for payment to the LC Bank, cash in an amount sufficient to pay (x) any outstanding Reimbursement Obligations and (y) all other outstanding Borrower Obligations with respect to such reduction (determined based on the ratio of the reduction of the Facility Limit being effected to the amount of the Facility Limit prior to such reduction or, if the Administrative Agent reasonably determines that any portion of the outstanding Borrower Obligations is allocable solely to that portion of the Facility Limit being reduced or has arisen solely as a result of such reduction, all of such portion). Upon receipt of any such amounts, the Administrative Agent shall apply such amounts *first*, to the outstanding Reimbursement Obligations, and *second*, to the payment of the remaining outstanding Borrower Obligations with respect to such reduction by paying such amounts to the Credit Party entitled thereto.

ARTICLE IV

SETTLEMENT PROCEDURES AND PAYMENT PROVISIONS

Section 4.01. Settlement Procedures. (a) The Servicer shall set aside and hold in trust for the benefit of the Secured Parties (or, if so requested by the Administrative Agent, segregate in a separate account in the name of the Borrower and approved by the Administrative Agent), for application in accordance with the priority of payments set forth below, all Collections on Pool Receivables that are received by the Servicer or the Borrower or received in any Lock-Box or Collection Account; *provided, however*, that so long as each of the conditions precedent set forth in Section 6.03 are satisfied, the Servicer may release to the Borrower from such Collections the amount (if any) necessary to pay the purchase price for Receivables purchased by the Borrower (including by payments on the Subordinated Notes) in accordance with the terms of the Receivables Purchase Agreement (each such release, a "*Reinvestment*"). On each Settlement Date, the Servicer (or, following its assumption of control of the Collection Accounts, the Administrative Agent) shall, distribute such Collections in the following order of priority:

(i) *first*, to the Servicer for the payment of the accrued Servicing Fees payable for the immediately preceding Settlement Period (*plus*, if applicable, the amount of Servicing

Fees payable for any prior Settlement Period to the extent such amount has not been distributed to the Servicer);

(ii) *second*, to each Credit Party (ratably, based on the amount then due and owing), all accrued and unpaid Interest and Fees due to such Credit Party for the immediately preceding Settlement Period (including any additional amounts or indemnified amounts payable under Section 5.03 and Section 13.01 in respect of such payments), plus, if applicable, the amount of any such Interest and Fees (including any additional amounts or indemnified amounts payable under Section 5.03 and Section 13.01 in respect of such payments) payable for any prior Settlement Period to the extent such amount has not been distributed to such Credit Party;

(iii) *third*, as set forth in clause (x) or (y) below, as applicable:

(x) prior to the occurrence of the Termination Date: (i) *first*, to the LC Bank for the payment in full of the aggregate outstanding Reimbursement Obligations at such time and (ii) *second*, to the extent that a Borrowing Base Deficit exists on such date, to the LC Collateral Account, in reduction of the Adjusted LC Amount, in an amount equal to the amount necessary (after giving effect to clause (i) above) to reduce the Borrowing Base Deficit to zero (\$0); or

(y) on and after the occurrence of the Termination Date: (i) *first*, to the LC Bank for the payment in full of the aggregate outstanding Reimbursement Obligations at such time, and (ii) *second* to the LC Collateral Account (a) the amount necessary to reduce the Adjusted LC Amount to zero (\$0) and (b) an amount equal to the LC Fee Expectation at such time;

(iv) *fourth*, to the Credit Parties, the Affected Persons and the Borrower Indemnified Parties (ratably, based on the amount due and owing at such time), for the payment of all other Borrower Obligations then due and owing by the Borrower to the Credit Parties, the Affected Persons and the Borrower Indemnified Parties; and

(v) *fifth*, the balance, if any, to be paid to the Borrower for its own account.

(b) All payments or distributions to be made by the Servicer, the Borrower and any other Person to the LC Bank or its related Affected Persons and the Borrower Indemnified Parties hereunder shall be paid or distributed to the Administrative Agent's Account. The Administrative Agent, upon its receipt in the Administrative Agent's Account of any such payments or distributions, shall distribute such amounts to the LC Bank, Affected Persons and the Borrower Indemnified Parties ratably; *provided* that if the Administrative Agent shall have received insufficient funds to pay all of the above amounts in full on any such date, the Administrative Agent shall pay such amounts to the LC Bank, Affected Persons and the Borrower Indemnified Parties in accordance with the priority of payments forth above, and with respect to any such category above for which there are insufficient funds to pay all amounts owing on such date, ratably (based on the amounts in such categories owing to each such Person) among all such Persons entitled to payment thereof.

(c) If and to the extent any Credit Party, any Affected Person or any Borrower Indemnified Party shall be required for any reason to pay over to any Person (other than to any Person that is a party hereto as contemplated by this Agreement) any amount received on its behalf hereunder, such amount shall be deemed not to have been so received but rather to have been retained by the Borrower and, accordingly, such Credit Party, such Affected Person or such Borrower Indemnified Party, as the case may be, shall have a claim against the Borrower for such amount.

(d) For the purposes of this Section 4.01:

(i) if on any day the Outstanding Balance of any Pool Receivable is reduced or adjusted as a result of any defective, rejected, returned, repossessed or foreclosed goods or services, or any revision, cancellation, allowance, rebate, credit memo, discount or other adjustment made by the Borrower, any Originator, the Servicer or any Affiliate of the Servicer, or any setoff, counterclaim or dispute between or among the Borrower or any Affiliate of the Borrower, an Originator or any Affiliate of an Originator, or the Servicer or any Affiliate of the Servicer, and an Obligor, the Borrower shall be deemed to have received on such day a Collection of such Pool Receivable in the amount of such reduction or adjustment and shall immediately pay any and all such amounts in respect thereof to a Collection Account (or as otherwise directed by the Administrative Agent at such time) for the benefit of the Credit Parties for application pursuant to Section 4.01(a);

(ii) if on any day any of the representations or warranties in Section 7.01 is not true with respect to any Pool Receivable, the Borrower shall be deemed to have received on such day a Collection of such Pool Receivable in full and shall immediately pay the amount of such deemed Collection to a Collection Account (or as otherwise directed by the Administrative Agent at such time) for the benefit of the Credit Parties for application pursuant to Section 4.01(a) (Collections deemed to have been received pursuant to Section 4.01(d) are hereinafter sometimes referred to as “*Deemed Collections*”);

(iii) except as provided in clauses (i) or (ii) above or otherwise required by Applicable Law or the relevant Contract, all Collections received from an Obligor of any Receivable shall be applied to the Receivables of such Obligor in the order of the age of such Receivables, starting with the oldest such Receivable, unless such Obligor designates in writing its payment for application to specific Receivables; and

(iv) if and to the extent the Administrative Agent, any Credit Party, any Affected Person or any Borrower Indemnified Party shall be required for any reason to pay over to an Obligor (or any trustee, receiver, custodian or similar official in any Insolvency Proceeding) any amount received by it hereunder, such amount shall be deemed not to have been so received by such Person but rather to have been retained by the Borrower and, accordingly, such Person shall have a claim against the Borrower for such amount, payable when and to the extent that any distribution from or on behalf of such Obligor is made in respect thereof.

Section 4.02. Payments and Computations, Etc. (a) All amounts to be paid by the Borrower or the Servicer to the Administrative Agent, any Credit Party, any Affected Person or any Borrower Indemnified Party hereunder shall be paid no later than 12:00 Noon (New York City time) on the day when due in same day funds to the Administrative Agent's Account.

(b) Each of the Borrower and the Servicer shall, to the extent permitted by Applicable Law, pay interest on any amount not paid or deposited by it when due hereunder, at an interest rate per annum equal to 2.00% per annum above the Base Rate, payable on demand.

(c) All computations of interest under subsection (b) above and all computations of Interest, Fees and other amounts hereunder shall be made on the basis of a year of 360 days (or, in the case of amounts determined by reference to the Base Rate, 365 or 366 days, as applicable) for the actual number of days (including the first but excluding the last day) elapsed. Whenever any payment or deposit to be made hereunder shall be due on a day other than a Business Day, such payment or deposit shall be made on the next succeeding Business Day and such extension of time shall be included in the computation of such payment or deposit.

ARTICLE V

INCREASED COSTS; FUNDING LOSSES; TAXES; ILLEGALITY AND SECURITY INTEREST

Section 5.01. Increased Costs.

(a) *Increased Costs Generally.* If any Change in Law shall:

(i) impose, modify or deem applicable any reserve, special deposit, liquidity, compulsory loan, insurance charge or similar requirement against assets of, deposits with or for the account of, or credit extended or participated in by, any Affected Person (except any such reserve requirements reflected in Adjusted LIBOR or LMIR);

(ii) subject any Affected Person to any Taxes (except to the extent such Taxes are Indemnified Taxes for which relief is sought under Section 5.03 or are Excluded Taxes) on its loans, loan principal, letters of credit, commitments or other obligations, or its deposits, reserves, other liabilities or capital attributable thereto; or

(iii) impose on any Affected Person any other condition, cost or expense (other than Taxes) (A) affecting the Collateral, this Agreement, any other Transaction Document, the Reimbursement Obligations or any Letter of Credit or (B) affecting its obligations or rights to issue or participate in Letters of Credit;

and the result of any of the foregoing shall be to increase the cost to such Affected Person of (A) acting as the Administrative Agent or a Credit Party hereunder, (B) funding or maintaining any Reimbursement Obligations or issuing or participating in, any Letter of Credit (or interests therein) or (C) issuing or participating in, any Letter of Credit or maintaining its obligation to do so), or to reduce the amount of any sum received or receivable by such Affected Person hereunder, then, upon

request of such Affected Person, the Borrower shall pay to such Affected Person such additional amount or amounts as will compensate such Affected Person for such additional costs incurred or reduction suffered.

(b) *Capital and Liquidity Requirements.* If any Affected Person determines that any Change in Law affecting such Affected Person or any lending office of such Affected Person or such Affected Person's holding company, if any, regarding capital or liquidity requirements, has or would have the effect of (x) increasing the amount of capital required to be maintained by such Affected Person or Affected Person's holding company, if any, (y) reducing the rate of return on such Affected Person's capital or on the capital of such Affected Person's holding company, if any, to a level below that which such Affected Person or such Affected Person's holding company could have achieved but for such Change in Law or (z) causing an internal capital or liquidity charge or other imputed cost to be assessed upon such Affected Person or Affected Person's holding company, if any, in each case, as a consequence of (A) this Agreement or any other Transaction Document, (B) the commitments of such Affected Person hereunder or under any other Transaction Document, (C) the Letters of Credit, the Letter of Credit Applications or participations in Letters of Credit, made or issued by such Affected Person or (D) any Reimbursement Obligations, in each case taking into consideration such Affected Person's policies and the policies of such Affected Person's holding company with respect to capital adequacy and liquidity, then from time to time, upon request of such Affected Person, the Borrower will pay to such Affected Person such additional amount or amounts as will compensate such Affected Person or such Affected Person's holding company for any such increase in capital, reduction in rate of return on capital or capital or liquidity charge.

(c) *Adoption of Changes in Law.* The Borrower acknowledges that any Affected Person may institute measures in anticipation of a Change in Law that has been adopted but is not yet effective (including, without limitation, the imposition of internal charges on such Affected Person's interests or obligations under any Transaction Document), and may commence allocating charges to or seeking compensation from the Borrower under this Section 5.01 in connection with such measures, in advance of the effective date of such Change in Law, and the Borrower agrees to pay such charges or compensation to such Affected Person, following demand therefor in accordance with the terms of this Section 5.01, without regard to whether such effective date has occurred.

(d) *Certificates for Reimbursement.* A certificate of an Affected Person setting forth the amount or amounts necessary to compensate such Affected Person or its holding company, as the case may be, as specified in clause (a), (b) or (c) of this Section and delivered to the Borrower, shall be conclusive absent manifest error. The Borrower shall, subject to the priorities of payment set forth in Section 4.01, pay such Affected Person the amount shown as due on any such certificate on the first Settlement Date occurring after the Borrower's receipt of such certificate.

(e) *Delay in Requests.* Failure or delay on the part of any Affected Person to demand compensation pursuant to this Section 5.01 shall not constitute a waiver of such Affected Person's right to demand such compensation; *provided*, that the Borrower shall not be required to compensate an Affected Person pursuant to this Section 5.01 for any increased costs, reductions, increases or

charges incurred more than 180 days prior to the date that such Affected Person notifies the Borrower of the Change in Law giving rise to such increased costs, reductions, increases or charges and of such Affected Person's intention to claim compensation therefor.

Section 5.02. Reserved.

Section 5.03. Taxes.

(a) *Payments Free of Taxes.* Any and all payments by or on account of any obligation of the Borrower under any Transaction Document shall be made without deduction or withholding for any Taxes, except as required by Applicable Law. If any Applicable Law (as determined in the good faith discretion of the applicable Credit Party, Affected Person or Borrower Indemnified Party) requires the deduction or withholding of any Tax from any such payment by a Credit Party, Affected Person or Borrower Indemnified Party, then the applicable Credit Party, Affected Person or Borrower Indemnified Party shall be entitled to make such deduction or withholding and shall timely pay the full amount deducted or withheld to the relevant Governmental Authority in accordance with Applicable Law, and, if such Tax is an Indemnified Tax, then the sum payable by the Borrower shall be increased as necessary so that after such deduction or withholding has been made (including such deductions and withholdings applicable to additional sums payable under this Section 5.03), the applicable Credit Party, Affected Person or Borrower Indemnified Party receives an amount equal to the sum it would have received had no such deduction or withholding been made.

(b) *Payment of Other Taxes by the Borrower.* The Borrower shall timely pay to the relevant Governmental Authority in accordance with Applicable Law, or, at the option of the Administrative Agent, timely reimburse it for the payment of, any Other Taxes.

(c) *Indemnification by the Borrower.* To the extent not paid, reimbursed or compensated pursuant to Section 5.03(a), the Borrower shall indemnify each Affected Person, within ten days after delivery of the certificate referred to in the last sentences of this clause (c), for the full amount of any (I) Indemnified Taxes (including Indemnified Taxes imposed or asserted on or attributable to amounts payable under this Section 5.03) payable or paid by such Affected Person or required to be withheld or deducted from a payment to such Affected Person 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 and (II) the excess of any Taxes that arise because any Reimbursement Obligation is not treated for U.S. federal, state, local or franchise tax purposes as intended under Section 5.03(j) over the amount of Taxes that would have been payable had such Reimbursement Obligation been treated by such Governmental Authority for U.S. federal, state, local or franchise tax purposes as intended under Section 5.03(j) (such indemnification will include any U.S. federal, state or local income and franchise taxes necessary to make such Affected Person whole on an after-tax basis taking into account the taxability of receipt of payments under this clause (II) and any reasonable expenses (other than Taxes) arising out of, relating to, or resulting from the foregoing). Promptly upon having knowledge that any such Indemnified Taxes have been levied, imposed or assessed, and promptly

upon notice by the Administrative Agent or any Affected Person, to the extent not previously paid by the Affected Person, the Borrower shall pay such Indemnified Taxes directly to the relevant taxing authority or Governmental Authority; provided that neither the Administrative Agent nor any Affected Person shall be under any obligation to provide any such notice to the Borrower. A certificate that describes in reasonable detail the basis for the indemnified claim, along with copies of any receipts, evidence of payment or other correspondence to or from a Governmental Authority relating to or supporting such indemnified claim shall be delivered to the Borrower by an Affected Person (with a copy to the Administrative Agent), or by the Administrative Agent on its own behalf or on behalf of an Affected Person, and shall be conclusive as to the amounts paid or payable absent manifest error.

(d) *Indemnification by the LC Bank.* The LC Bank shall severally indemnify the Administrative Agent, within ten (10) days after demand therefor, for (i) any Indemnified Taxes attributable to the LC Bank or any of its respective Affiliates that are Affected Persons (but only to the extent that the Borrower and its Affiliates have not already indemnified the Administrative Agent for such Indemnified Taxes and without limiting any obligation of the Borrower, the Servicer or their Affiliates to do so), (ii) any Taxes attributable to the failure of the LC Bank or any of its respective Affiliates that are Affected Persons to comply with Section 14.03(b) relating to the maintenance of a Participant Register, and (iii) any Excluded Taxes attributable to the LC Bank or any of their respective Affiliates that are Affected Persons, in each case, that are payable or paid by the Administrative Agent in connection with any Transaction Document, and any reasonable expenses arising therefrom or with respect thereto, whether or not such Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to the LC Bank by the Administrative Agent shall be conclusive absent manifest error. The LC Bank hereby authorizes the Administrative Agent to set off and apply any and all amounts at any time owing to the LC Bank or any of its respective Affiliates that are Affected Persons under any Transaction Document or otherwise payable by the Administrative Agent to the LC Bank or any of its respective Affiliates that are Affected Persons from any other source against any amount due to the Administrative Agent under this clause (d).

(e) *Evidence of Payments.* As soon as practicable after any payment of Taxes by the Borrower to a Governmental Authority pursuant to this Section 5.03, the Borrower shall deliver to the Administrative Agent the original or a certified copy of a receipt issued by such Governmental Authority evidencing such payment, a copy of the return reporting such payment or other evidence of such payment reasonably satisfactory to the Administrative Agent.

(f) *Status of Affected Persons.* (i) Any Affected Person that is entitled to an exemption from or reduction of withholding Tax with respect to payments made under any Transaction Document shall deliver to the Borrower and the Administrative Agent, at the time or times reasonably requested by the Borrower or the Administrative Agent, such properly completed and executed documentation reasonably requested by the Borrower or the Administrative Agent as will permit such payments to be made without withholding or at a reduced rate of withholding. In addition, any Affected Person, if reasonably requested by the Borrower or the Administrative Agent, shall deliver such other documentation prescribed by Applicable Law or reasonably requested by the Borrower or the Administrative Agent as will enable the Borrower or the Administrative Agent to

determine whether or not such Affected Person is subject to backup withholding or information reporting requirements. Notwithstanding anything to the contrary in the preceding two sentences, the completion, execution and submission of such documentation (other than such documentation set forth in Sections 5.03(f)(ii)(A), 5.03(f)(ii)(B) and 5.03(g)) shall not be required if, in the Affected Person's reasonable judgment, such completion, execution or submission would subject such Affected Person to any material unreimbursed cost or expense or would materially prejudice the legal or commercial position of such Affected Person.

(ii) Without limiting the generality of the foregoing:

(A) any Affected Person that is a "United States Person" within the meaning of Section 7701(a)(30) of the Code, and not an exempt recipient described in Section 6049(b)(4) of the Code, shall deliver to the Borrower and the Administrative Agent on or prior to the date on which such Affected Person would, contingently or otherwise, become entitled to payments hereunder, and from time to time upon the reasonable request of the Borrower or the Administrative Agent, executed originals of Internal Revenue Service Form W-9 or such other documentation or information prescribed by Applicable Laws or reasonably requested by the Borrower or the Administrative Agent certifying that such Affected Person is exempt from U.S. federal withholding Tax (including backup withholding Tax) along with such other information reasonably requested by the Borrower or the Administrative Agent as is required to meet their U.S. federal information reporting requirements;

(B) any Affected Person that is organized under the laws of a jurisdiction other than the United States (including each State thereof and the District of Columbia) (a "*Foreign Affected Person*") that is entitled under the Code or any applicable treaty to an exemption from or reduction of withholding tax with respect to payments hereunder shall deliver to the Borrower and the Administrative Agent (in such number of copies as shall be reasonably requested by the Borrower or the Administrative Agent) on or prior to the date on which such Foreign Affected Person becomes an Affected Person with respect to this Agreement (and from time to time thereafter upon the reasonable request of the Borrower or the Administrative Agent, but only if such Foreign Affected Person is legally entitled to do so), whichever of the following is applicable:

(1) in the case of such a Foreign Affected Person claiming the benefits of an income tax treaty to which the United States is a party, (x) with respect to payments of interest under any Transaction Document, executed originals of Internal Revenue Service Form W-8BEN or Internal Revenue Service Form W-8BEN-E (or successor form) establishing an exemption from, or reduction of, U.S. Federal withholding Tax pursuant to the "interest" article of such tax treaty and (y) with respect to any other applicable payments under any Transaction Document, Internal Revenue Service Form W-8BEN or Internal Revenue Form W-8BEN-E (or successor form) establishing an exemption from, or reduction of, U.S. Federal withholding Tax pursuant to the "business profits" or "other income" article of such tax treaty;

(2) in the case of a Foreign Affected Person claiming that its extension of credit will generate U.S. effectively connected income, executed originals of Internal Revenue Service Form W-8ECI;

(3) in the case of a Foreign Affected Person claiming the benefits of the exemption for portfolio interest under Section 881(c) of the Code, (x) a certificate to the effect that such Foreign Affected Person is not a “bank” within the meaning of Section 881(c)(3)(A) of the Code, a “10 percent shareholder” of the Borrower within the meaning of Section 881(c)(3)(B) of the Code, or a “controlled foreign corporation” described in Section 881(c)(3)(C) of the Code (a “*U.S. Tax Compliance Certificate*”) and (y) executed originals of Internal Revenue Service Form W-8BEN or Internal Revenue Service Form W-8BEN-E (or successor form); or

(4) to the extent such Foreign Affected Person is not the beneficial owner, executed originals of Internal Revenue Service Form W-8IMY, accompanied by Internal Revenue Service Form W-8ECI, Internal Revenue Service Form W-8BEN or Internal Revenue Service Form W-8BEN-E (or successor form), a U.S. Tax Compliance Certificate, Internal Revenue Service Form W-9, and/or other certification documents from each beneficial owner, as applicable; *provided that*, if such Foreign Affected Person is a partnership and one or more direct or indirect partners of such Foreign Affected Person are claiming the portfolio interest exemption, such Foreign Affected Person may provide a U.S. Tax Compliance Certificate on behalf of each such direct and indirect partner; and

(C) any Foreign Affected Person, to the extent it is legally entitled to do so, shall deliver to the Borrower and the Administrative Agent (in such number of copies as shall be requested by the recipient), on or prior to the date on which such Foreign Affected Person would, contingently or otherwise, become entitled to payments hereunder, and from time to time upon the reasonable request of the Borrower or the Administrative Agent, executed originals of any other form prescribed by Applicable Law as a basis for claiming exemption from or a reduction in U.S. federal withholding Tax, duly completed, together with such supplementary documentation as may be prescribed by Applicable Law to permit the Borrower or the Administrative Agent to determine the withholding or deduction required to be made.

(g) *Documentation Required by FATCA.* If a payment made to an Affected Person under any Transaction Document would be subject to U.S. federal withholding Tax imposed by FATCA if such Affected Person were to fail to comply with the applicable reporting requirements of FATCA (including those contained in Section 1471(b) or 1472(b) of the Code, as applicable), such Affected Person shall deliver to the Borrower and the Administrative Agent at the time or times prescribed by Applicable Law and at such time or times reasonably requested by the Borrower or the Administrative Agent such documentation prescribed by Applicable Law (including as prescribed by Section 1471(b)(3)(C)(i) of the Code) and such additional documentation reasonably requested

by the Borrower or the Administrative Agent as may be necessary for the Borrower and the Administrative Agent to comply with their obligations under FATCA and to determine that such Affected Person has complied with such Affected Person's obligations under FATCA or to determine the amount to deduct and withhold from such payment. Solely for purposes of this clause (g), "FATCA" shall include any amendments made to FATCA after the date of this Agreement and any fiscal or regulatory legislation, rules or practices adopted pursuant to any intergovernmental agreement entered into in connection with FATCA.

(h) *Survival*. Each party's obligations under this Section 5.03 shall survive the resignation or replacement of the Administrative Agent or any assignment of rights by, or the replacement of, a Credit Party or any other Affected person, the termination of the Commitments and the repayment, satisfaction or discharge of all the Borrower Obligations and the Servicer's obligations hereunder.

(i) *Updates*. Each Affected Person agrees that if any form or certification it previously delivered pursuant to this Section 5.03 expires or becomes obsolete or inaccurate in any respect, it shall update such form or certification or promptly notify the Borrower and the Administrative Agent in writing of its legal inability to do so.

(j) *Intended Tax Treatment*. Notwithstanding anything to the contrary herein or in any other Transaction Document, all parties to this Agreement covenant and agree to treat all Reimbursement Obligations under this Agreement as debt (and all Interest as interest) for all federal, state, local and franchise tax purposes and agree not to take any position on any tax return inconsistent with the foregoing.

(k) *Treatment of Certain Refunds*. If any party determines, in its sole discretion exercised in good faith, that it has received a refund of any Taxes as to which it has been indemnified pursuant to this Section 5.03 (including by the payment of additional amounts pursuant to this Section 5.03), it shall pay to the indemnifying party an amount equal to such refund (but only to the extent of indemnity payments made under this Section 5.03 with respect to the Taxes giving rise to such refund), net of all reasonable out-of-pocket expenses (including Taxes) of such indemnified party and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund). Such indemnifying party, upon the request of such indemnified party, shall repay to such indemnified party the amount paid over pursuant to this paragraph (k) (*plus* any penalties, interest or other charges imposed by the relevant Governmental Authority) in the event that such indemnified party is required to repay such refund to such Governmental Authority. Notwithstanding anything to the contrary in this paragraph (k), in no event will the indemnified party be required to pay any amount to an indemnifying party pursuant to this paragraph (k) the payment of which would place the indemnified party in a less favorable net after-Tax position than the indemnified party 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. This paragraph shall not be construed to require any indemnified party to make available its Tax returns (or any other information relating to its Taxes that it deems confidential) to the indemnifying party or any other Person.

Section 5.04. Inability to Determine Adjusted LIBOR or LMIR; Change in Legality. (a) If the LC Bank shall have determined (which determination shall be conclusive and binding upon the parties hereto absent manifest error) on any day, by reason of circumstances affecting the interbank Eurodollar market, either that: (i) dollar deposits in the relevant amounts and for the relevant day, are not available, (ii) adequate and reasonable means do not exist for ascertaining Adjusted LIBOR or LMIR for such day, as applicable, or (iii) Adjusted LIBOR or LMIR determined pursuant hereto does not accurately reflect the cost to the LC Bank (as conclusively determined by the LC Bank) of maintaining any Portion of Reimbursement Obligation during such day, as applicable, the LC Bank shall promptly give telephonic notice of such determination, confirmed in writing, to the Administrative Agent and the Borrower on such day. Upon delivery of such notice: (i) no Portion of Reimbursement Obligation shall be funded thereafter at Adjusted LIBOR or LMIR unless and until the LC Bank shall have given notice to the Administrative Agent and the Borrower that the circumstances giving rise to such determination no longer exist and (ii) with respect to any outstanding Portion of Reimbursement Obligation then funded at Adjusted LIBOR or LMIR, the Interest Rate with respect to such Portion of Reimbursement Obligation shall automatically and immediately be converted to the Base Rate.

(b) If, on any day, the LC Bank shall have been notified by any Affected Person that such Affected Person has determined (which determination shall be final and conclusive absent manifest error) that any Change in Law, or compliance by such Affected Person with any Change in Law, shall make it unlawful or impossible for such Affected Person to fund or maintain any Portion of Reimbursement Obligation at or by reference to the Adjusted LIBOR or LMIR, the LC Bank shall notify the Borrower and the Administrative Agent thereof. Upon receipt of such notice, until the LC Bank notifies the Borrower and the Administrative Agent that the circumstances giving rise to such determination no longer apply, (i) no Portion of Reimbursement Obligation shall be funded at or by reference to Adjusted LIBOR or LMIR and (ii) the Interest Rate for any outstanding Portion of Reimbursement Obligation then funded at Adjusted LIBOR or LMIR shall automatically and immediately be converted to the Base Rate.

Section 5.05. Security Interest. (a) As security for the performance by the Borrower of all the terms, covenants and agreements on the part of the Borrower to be performed under this Agreement or any other Transaction Document, including the punctual payment when due of the Outstanding Reimbursement Obligations and all Interest in respect thereof, and all other Borrower Obligations, the Borrower hereby grants to the Administrative Agent for its benefit and the ratable benefit of the Secured Parties, a continuing security interest in, all of the Borrower's right, title and interest in, to and under all of the following, whether now or hereafter owned, existing or arising (collectively, the "*Collateral*"): (i) all Pool Receivables, (ii) all Related Security with respect to such Pool Receivables, (iii) all Collections with respect to such Pool Receivables, (iv) the Lock-Boxes and Collection Accounts and all amounts on deposit therein, and all certificates and instruments, if any, from time to time evidencing such Lock-Boxes and Collection Accounts and amounts on deposit therein, (v) the LC Collateral Account and all amounts from time to time on deposit therein, (vi) all rights (but none of the obligations) of the Borrower under the Receivables Purchase Agreement, (vii) all other personal and fixture property or assets of the Borrower of every kind and nature including, without limitation, all goods (including inventory, equipment and any accessions thereto), instruments (including promissory notes), documents, accounts, chattel paper

(whether tangible or electronic), deposit accounts, securities accounts, securities entitlements, letter-of-credit rights, commercial tort claims, securities and all other investment property, supporting obligations, money, any other contract rights or rights to the payment of money, insurance claims and proceeds, and all general intangibles (including all payment intangibles) (each as defined in the UCC), and (viii) all proceeds of, and all amounts received or receivable under any or all of, the foregoing.

(b) The Administrative Agent (for the benefit of the Secured Parties) shall have, with respect to all the Collateral, and in addition to all the other rights and remedies available to the Administrative Agent (for the benefit of the Secured Parties), all the rights and remedies of a secured party under any applicable UCC. The Borrower hereby authorizes the Administrative Agent to file financing statements describing as the collateral covered thereby “all of the debtor’s personal property or assets” or words to that effect, notwithstanding that such wording may be broader in scope than the collateral described in this Agreement.

(c) Immediately upon the occurrence of the Final Payout Date, the Collateral shall be automatically released from the lien created hereby, and this Agreement and all obligations (other than those expressly stated to survive such termination) of the Credit Parties hereunder shall terminate, all without delivery of any instrument or performance of any act by any party, and all rights to the Collateral shall revert to the Borrower; *provided, however*, that promptly following written request therefor by the Borrower delivered to the Administrative Agent following any such termination, and at the sole expense of the Borrower, the Administrative Agent shall execute and deliver to the Borrower UCC-3 termination statements and such other documents as the Borrower shall reasonably request to evidence such termination.

ARTICLE VI

CONDITIONS TO EFFECTIVENESS AND CREDIT EXTENSIONS

Section 6.01. Conditions Precedent to Effectiveness. This Agreement shall become effective as of the Closing Date when (a) the Administrative Agent shall have received each of the documents, agreements (in fully executed form), opinions of counsel, lien search results, UCC filings, certificates and other deliverables listed on the closing memorandum attached as Exhibit H hereto, in each case, in form and substance acceptable to the Administrative Agent and (b) all fees and expenses payable by the Borrower on the Closing Date to the Credit Parties have been paid in full in accordance with the terms of the Transaction Documents.

Section 6.02. Conditions Precedent to All Credit Extensions. Each Credit Extension hereunder on or after the Closing Date shall be subject to the conditions precedent that:

(a) the Borrower shall have delivered to the Administrative Agent and the LC Bank, a Letter of Credit Application and an LC Request, in each case, in accordance with Section 3.02(a);

(b) the Servicer shall have delivered to the Administrative Agent and the LC Bank all Information Packages required to be delivered hereunder;

(c) the conditions precedent to such Credit Extension specified in Section 3.01 (a) shall be satisfied; and

(d) on the date of such Credit Extension the following statements shall be true and correct (and upon the occurrence of such Credit Extension, the Borrower and the Servicer shall be deemed to have represented and warranted that such statements are then true and correct):

(i) the representations and warranties of the Borrower and the Servicer contained in Sections 7.01 and 7.02 are true and correct in all material respects on and as of the date of such Credit Extension as though made on and as of such date unless such representations and warranties by their terms refer to an earlier date, in which case they shall be true and correct in all material respects on and as of such earlier date;

(ii) no Event of Default or Unmatured Event of Default has occurred and is continuing, and no Event of Default or Unmatured Event of Default would result from such Credit Extension;

(iii) no Borrowing Base Deficit exists or would exist after giving effect to such Credit Extension; and

(iv) the Termination Date has not occurred.

Section 6.03. Conditions Precedent to All Reinvestments. Each Reinvestment hereunder on or after the Closing Date shall be subject to the conditions precedent that:

(a) after giving effect to such Reinvestment, the Servicer shall be holding in trust for the benefit of the Secured Parties an amount of Collections sufficient to pay the sum of (x) all accrued and unpaid Servicing Fees, Interest and Fees, in each case, through the date of such Reinvestment, (y) the amount of any Borrowing Base Deficit, and (z) the amount of all other accrued and unpaid Borrower Obligations through the date of such Reinvestment;

(b) the Borrower shall use the proceeds of such Reinvestment solely to pay the purchase price for Receivables purchased by the Borrower in accordance with the terms of the Receivables Purchase Agreement; and

(c) on the date of such Reinvestment the following statements shall be true and correct (and upon the occurrence of such Reinvestment, the Borrower and the Servicer shall be deemed to have represented and warranted that such statements are then true and correct):

(i) the representations and warranties of the Borrower and the Servicer contained in Sections 7.01 and 7.02 are true and correct in all material respects on

and as of the date of such Reinvestment as though made on and as of such date unless such representations and warranties by their terms refer to an earlier date, in which case they shall be true and correct in all material respects on and as of such earlier date;

(ii) no Event of Default has occurred and is continuing, and no Event of Default would result from such Reinvestment;

(iii) no Borrowing Base Deficit exists or would exist after giving effect to such Reinvestment; and

(iv) the Termination Date has not occurred.

ARTICLE VII

REPRESENTATIONS AND WARRANTIES

Section 7.01. Representations and Warranties of the Borrower. The Borrower represents and warrants to each Credit Party as of the Closing Date, on each Settlement Date and on each day on which a Credit Extension shall have occurred:

(a) *Organization and Good Standing.* The Borrower is a limited liability company and validly existing in good standing under the laws of the State of Ohio and has full power and authority to own its properties and to conduct its business as such properties are currently owned and such business is presently conducted.

(b) *Due Qualification.* The Borrower is duly qualified to do business, is in good standing as a foreign entity and has obtained all necessary licenses and approvals in all jurisdictions in which the conduct of its business requires such qualification, licenses or approvals, except where the failure to do so could not reasonably be expected to have a Material Adverse Effect.

(c) *Power and Authority; Due Authorization.* The Borrower (i) has all necessary power and authority to (A) execute and deliver this Agreement and the other Transaction Documents to which it is a party, (B) perform its obligations under this Agreement and the other Transaction Documents to which it is a party and (C) grant a security interest in the Collateral to the Administrative Agent on the terms and subject to the conditions herein provided and (ii) has duly authorized by all necessary action such grant and the execution, delivery and performance of, and the consummation of the transactions provided for in, this Agreement and the other Transaction Documents to which it is a party.

(d) *Binding Obligations.* This Agreement and each of the other Transaction Documents to which the Borrower is a party constitutes legal, valid and binding obligations of the Borrower, enforceable against the Borrower in accordance with their respective terms,

except (i) as such enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting the enforcement of creditors' rights generally and (ii) as such enforceability may be limited by general principles of equity, regardless of whether such enforceability is considered in a proceeding in equity or at law.

(e) *No Violation.* The execution, delivery and performance of, and the consummation of the transactions contemplated by, this Agreement and the other Transaction Documents to which it is a party, and the fulfillment of the terms hereof and thereof, will not (i) result in any breach of any of the terms or provisions of, or constitute (with or without notice or lapse of time or both) a default under its organizational documents or any indenture, sale agreement, credit agreement, loan agreement, security agreement, mortgage, deed of trust, or other material agreement or instrument to which the Borrower is a party or by which it or any of its properties is bound, (ii) result in the creation or imposition of any Adverse Claim upon any of the Collateral pursuant to the terms of any such indenture, credit agreement, loan agreement, security agreement, mortgage, deed of trust, or other material agreement or instrument other than this Agreement and the other Transaction Documents or (iii) violate any Applicable Law.

(f) *Litigation and Other Proceedings.* (i) There is no action, suit, proceeding or investigation pending or, to the best knowledge of the Borrower, threatened, against the Borrower before any Governmental Authority and (ii) the Borrower is not subject to any order, judgment, decree, injunction, stipulation or consent order of or with any Governmental Authority that, in the case of either of the foregoing clauses (i) and (ii), (A) asserts the invalidity of this Agreement or any other Transaction Document, (B) seeks to prevent the grant of a security interest in any Collateral by the Borrower to the Administrative Agent, the ownership or acquisition by the Borrower of any Pool Receivables or other Collateral or the consummation of any of the transactions contemplated by this Agreement or any other Transaction Document, (C) seeks any determination or ruling that could materially and adversely affect the performance by the Borrower of its obligations under, or the validity or enforceability of, this Agreement or any other Transaction Document or (D) individually or in the aggregate for all such actions, suits, proceedings and investigations could reasonably be expected to have a Material Adverse Effect.

(g) *Governmental Approvals.* Except where the failure to obtain or make such authorization, consent, order, approval or action could not reasonably be expected to have a Material Adverse Effect, all authorizations, consents, orders and approvals of, or other actions by, any Governmental Authority that are required to be obtained by the Borrower in connection with the grant of a security interest in the Collateral to the Administrative Agent hereunder or the due execution, delivery and performance by the Borrower of this Agreement or any other Transaction Document to which it is a party and the consummation by the Borrower of the transactions contemplated by this Agreement and the other Transaction Documents to which it is a party have been obtained or made and are in full force and effect.

(h) *Margin Regulations.* The Borrower is not engaged, principally or as one of its important activities, in the business of extending credit for the purpose of purchasing or carrying margin stock (within the meanings of Regulations T, U and X of the Board of Governors of the Federal Reserve System).

(i) *Taxes.* The Borrower has filed all material Tax returns and reports required by Applicable Law to have been filed by it and has paid all material Taxes, assessments and governmental charges thereby shown to be owing by it, other than any such Taxes, assessments or charges that are being contested in good faith by appropriate proceedings and for which appropriate reserves in accordance with GAAP have been established.

(j) *Solvency.* After giving effect to the transactions contemplated by this Agreement and the other Transaction Documents, the Borrower is Solvent.

(k) *Offices; Legal Name.* The Borrower's sole jurisdiction of organization, and its "location" within the meaning of Section 9-307 of the applicable UCC, is the State of Ohio and such jurisdiction has not changed within four (4) months prior to the date of this Agreement. The office of the Borrower is located at the applicable address specified on Schedule III hereto. The legal name of the Borrower is Davey Receivables LLC.

(l) *Investment Company Act.* The Borrower is not, and is not controlled by an "investment company" registered or required to be registered under the Investment Company Act. The Borrower is not a "covered fund" under Section 13 of the U.S. Bank Holding Company Act of 1956, as amended, and the applicable rules and regulations thereunder (the "*Volcker Rule*"). In determining that Borrower is not a "covered fund" under the Volcker Rule, the Borrower relies on the exemption from the definition of "investment company" set forth in Section 3(c)(5) of the Investment Company Act and does not rely solely on the exemption from the definition of "investment company" set forth in Section 3(c)(1) and/or 3(c)(7) of the Investment Company Act.

(m) *No Material Adverse Effect.* Since the date of formation of the Borrower there has been no Material Adverse Effect with respect to the Borrower.

(n) *Accuracy of Information.* All Information Packages (if prepared by the Borrower or one of its Affiliates, or to the extent that the information contained therein is supplied by the Borrower or an Affiliate of the Borrower), LC Requests, Letter of Credit Applications, certificates, reports, statements, documents and other information furnished to the Administrative Agent or any other Credit Party by or on behalf of the Borrower pursuant to any provision of this Agreement or any other Transaction Document, or in connection with or pursuant to any amendment or modification of, or waiver under, this Agreement or any other Transaction Document, is, at the time the same are so furnished, complete and correct in all material respects on the date the same are furnished to the Administrative Agent or such other Credit Party, and does not contain any material misstatement of fact or omit to state a material fact or any fact necessary to make the

statements contained therein, in light of the circumstances under which they were made, not misleading.

(o) *Anti -Money Laundering/International Trade Law Compliance.* No Covered Entity is a Sanctioned Person. To the Borrower's knowledge, no Obligor was a Sanctioned Person at the time of origination of any Pool Receivable owing by such Obligor. None of the Borrower, the Servicer or any Originator, either in its own right or through any third party, (i) has any of its assets in a Sanctioned Country or in the possession, custody or control of a Sanctioned Person in violation of any Anti - Terrorism Law; (ii) does business in or with, or derives any of its income from investments in or transactions with, any Sanctioned Country or Sanctioned Person in violation of any Anti - Terrorism Law; or (iii) engages in any dealings or transactions prohibited by any Anti - Terrorism Law.

(p) *Perfection Representations.* (i) This Agreement creates a valid and continuing security interest (as defined in the applicable UCC) in the Borrower's right, title and interest in, to and under the Collateral which (A) security interest has been perfected and is enforceable against creditors of and purchasers from the Borrower and (B) is and will be free of all Adverse Claims in such Collateral.

(ii) The Receivables constitute "accounts" or "general intangibles" within the meaning of Section 9-102 of the UCC.

(iii) The Borrower owns and has good and marketable title to the Collateral free and clear of any Adverse Claim of any Person.

(iv) All appropriate financing statements, financing statement amendments and continuation statements have been filed in the proper filing office in the appropriate jurisdictions under Applicable Law in order to perfect (and continue the perfection of) the sale (or, in the case of Davey Tree, contribution) of the Receivables and Related Security from each Originator to the Borrower pursuant to the Receivables Purchase Agreement and the grant by the Borrower of a security interest in the Collateral to the Administrative Agent pursuant to this Agreement.

(v) Other than the security interest granted to the Administrative Agent pursuant to this Agreement, the Borrower has not pledged, assigned, sold, granted a security interest in, or otherwise conveyed any of the Collateral except as permitted by this Agreement and the other Transaction Documents. The Borrower has not authorized the filing of and is not aware of any financing statements filed against the Borrower that include a description of collateral covering the Collateral other than any financing statement (i) in favor of the Administrative Agent or (ii) that has been terminated. The Borrower is not aware of any judgment lien, ERISA lien or tax lien filings against the Borrower.

(vi) Notwithstanding any other provision of this Agreement or any other Transaction Document, the representations contained in this Section 7.01(p) shall be continuing and remain in full force and effect until the Final Payout Date.

(q) *The Lock-Boxes and Collection Accounts.*

(i) *Nature of Collection Accounts.* Each Collection Account constitutes a “deposit account” within the meaning of the applicable UCC.

(ii) *Ownership.* Each Lock-Box and Collection Account is in the name of the Borrower, and the Borrower owns and has good and marketable title to the Collection Accounts free and clear of any Adverse Claim.

(iii) *Perfection.* The Borrower has delivered to the Administrative Agent a fully executed Account Control Agreement relating to each Lock-Box and Collection Account, pursuant to which each applicable Collection Account Bank has agreed to comply with the instructions originated by the Administrative Agent directing the disposition of funds in such Lock-Box and Collection Account without further consent by the Borrower, the Servicer or any other Person. The Administrative Agent has “control” (as defined in Section 9-104 of the UCC) over each Collection Account.

(iv) *Instructions.* Neither the Lock-Boxes nor the Collection Accounts are in the name of any Person other than the Borrower. Neither the Borrower nor the Servicer has consented to the applicable Collection Account Bank complying with instructions of any Person other than the Administrative Agent.

(r) *Ordinary Course of Business.* Each remittance of Collections by or on behalf of the Borrower to the Credit Parties under this Agreement will have been (i) in payment of a debt incurred by the Borrower in the ordinary course of business or financial affairs of the Borrower and (ii) made in the ordinary course of business or financial affairs of the Borrower.

(s) *Compliance with Law.* The Borrower has complied in all material respects with all Applicable Laws to which it may be subject.

(t) *Bulk Sales Act.* No transaction contemplated by this Agreement requires compliance by it with any bulk sales act or similar law.

(u) *Eligible Receivables.* Each Receivable included as an Eligible Receivable in the calculation of the Net Receivables Pool Balance as of any date is an Eligible Receivable as of such date.

(v) *Opinions.* The facts regarding the Borrower, the Servicer, each Originator, the Performance Guarantor, the Receivables, the Related Security and the related matters set forth or assumed in each of the opinions of counsel delivered in connection with this

Agreement and the Transaction Documents are true and correct in all material respects.

(w) *Other Transaction Documents*. Each representation and warranty made by the Borrower under each other Transaction Document to which it is a party is true and correct in all material respects as of the date when made, except for representations and warranties which apply as to an earlier date (in which case such representations and warranties shall be true and correct in all material respects as of such earlier date).

(x) *Reaffirmation of Representations and Warranties*. On the date of each Credit Extension, on the date of each Reinvestment, on each Settlement Date and on the date each Information Package or other report is delivered to the Administrative Agent or the LC Bank hereunder, the Borrower shall be deemed to have certified that (i) all representations and warranties of the Borrower hereunder are true and correct in all material respects on and as of such day as though made on and as of such day, except for representations and warranties which apply as to an earlier date (in which case such representations and warranties shall be true and correct in all material respects as of such earlier date) and (ii) no Event of Default or an Unmatured Event of Default has occurred and is continuing or will result from such Credit Extension or Reinvestment.

(y) *Issuance of Debt or Other Obligations*. The Borrower has not, does not and will not during this Agreement (i) issue any obligations that (A) constitute asset-backed commercial paper, or (B) are securities required to be registered under the Securities Act or that may be offered for sale under Rule 144A or a similar exemption from registration under the Securities Act or the rules promulgated thereunder, or (ii) issue any other debt obligations or equity interest other than debt obligations substantially similar to the obligations of the Borrower under this Agreement that are (A) issued to other banks or asset-backed commercial paper conduits in privately negotiated transactions, and (B) subject to transfer restrictions substantially similar to the transfer restrictions set forth in this Agreement. The Borrower further represents and warrants that its assets and liabilities are consolidated with the assets and liabilities of Davey Tree Group for purposes of generally accepted accounting principles.

Notwithstanding any other provision of this Agreement or any other Transaction Document, the representations and warranties contained in this Section 7.01 shall be continuing, and remain in full force and effect until the Final Payout Date.

Section 7.02. Representations and Warranties of the Servicer. The Servicer represents and warrants to each Credit Party as of the Closing Date, on each Settlement Date and on each day on which a Credit Extension shall have occurred:

(a) *Organization and Good Standing*. The Servicer is a duly organized and validly existing corporation in good standing under the laws of the State of Ohio, with the power and authority under its organizational documents and under the laws of the State of Ohio to own its properties and to conduct its business as such properties are currently owned and such business is presently conducted.

(b) *Due Qualification.* The Servicer is duly qualified to do business, is in good standing as a foreign entity and has obtained all necessary licenses and approvals in all jurisdictions in which the conduct of its business or the servicing of the Pool Receivables as required by this Agreement requires such qualification, licenses or approvals, except where the failure to do so could not reasonably be expected to have a Material Adverse Effect.

(c) *Power and Authority; Due Authorization.* The Servicer has all necessary power and authority to (i) execute and deliver this Agreement and the other Transaction Documents to which it is a party and (ii) perform its obligations under this Agreement and the other Transaction Documents to which it is a party and the execution, delivery and performance of, and the consummation of the transactions provided for in, this Agreement and the other Transaction Documents to which it is a party have been duly authorized by the Servicer by all necessary action.

(d) *Binding Obligations.* This Agreement and each of the other Transaction Documents to which it is a party constitutes legal, valid and binding obligations of the Servicer, enforceable against the Servicer in accordance with their respective terms, except (i) as such enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting the enforcement of creditors' rights generally and (ii) as such enforceability may be limited by general principles of equity, regardless of whether such enforceability is considered in a proceeding in equity or at law.

(e) *No Violation.* The execution and delivery of this Agreement and each other Transaction Document to which the Servicer is a party, the performance of the transactions contemplated by this Agreement and the other Transaction Documents and the fulfillment of the terms of this Agreement and the other Transaction Documents by the Servicer will not (i) result in any breach of any of the terms or provisions of, or constitute (with or without notice or lapse of time or both) a default under, the organizational documents of the Servicer or any indenture, sale agreement, credit agreement, loan agreement, security agreement, mortgage, deed of trust or other material agreement or instrument to which the Servicer is a party or by which it or any of its property is bound, (ii) result in the creation or imposition of any Adverse Claim upon any of its properties pursuant to the terms of any such indenture, credit agreement, loan agreement, agreement, mortgage, deed of trust or other material agreement or instrument, other than this Agreement and the other Transaction Documents or (iii) violate any Applicable Law, except to the extent that any such breach, default, Adverse Claim or violation could not reasonably be expected to have a Material Adverse Effect.

(f) *Litigation and Other Proceedings.* There is no action, suit, proceeding or investigation pending, or to the Servicer's knowledge threatened, against the Servicer before any Governmental Authority: (i) asserting the invalidity of this Agreement or any of the other Transaction Documents; (ii) seeking to prevent the consummation of any of the transactions contemplated by this Agreement or any other Transaction Document; or (iii) seeking any determination or ruling that could materially and adversely affect the performance by the Servicer of its obligations under, or the validity or enforceability of, this

Agreement or any of the other Transaction Documents, except, in each case that, if adversely determined, could not reasonably be expected, individually or in the aggregate, to result in a Material Adverse Effect.

(g) *No Consents.* The Servicer is not required to obtain the consent of any other party or any consent, license, approval, registration, authorization or declaration of or with any Governmental Authority in connection with the execution, delivery, or performance of this Agreement or any other Transaction Document to which it is a party that has not already been obtained or the failure of which to obtain could not reasonably be expected to have a Material Adverse Effect.

(h) *Compliance with Applicable Law.* The Servicer (i) has maintained in effect all qualifications required under Applicable Law in order to properly service the Pool Receivables and (ii) has complied in all material respects with all Applicable Law in connection with servicing the Pool Receivables.

(i) *Accuracy of Information.* All Information Packages (if prepared by the Servicer or one of its Affiliates, or to the extent that the information contained therein is supplied by the Servicer or an Affiliate of the Servicer), LC Requests, Letter of Credit Applications, certificates, reports, statements, documents and other information furnished to the Administrative Agent or any other Credit Party by the Servicer pursuant to any provision of this Agreement or any other Transaction Document, or in connection with or pursuant to any amendment or modification of, or waiver under, this Agreement or any other Transaction Document, is, at the time the same are so furnished, complete and correct in all material respects on the date the same are furnished to the Administrative Agent or such other Credit Party, and does not contain any material misstatement of fact or omit to state a material fact or any fact necessary to make the statements contained therein, in light of the circumstances under which they were made, not misleading.

(j) *Location of Records.* The offices where the initial Servicer keeps all of its records relating to the servicing of the Pool Receivables are located at 1500 N. Mantua St., Kent, Ohio 44240.

(k) *Credit and Collection Policy.* The Servicer has complied in all material respects with the Credit and Collection Policy with regard to each Pool Receivable and the related Contracts.

(l) *Eligible Receivables.* Each Receivable included as an Eligible Receivable in the calculation of the Net Receivables Pool Balance as of any date is an Eligible Receivable as of such date.

(m) *Servicing Programs.* No license or approval is required for the Administrative Agent's use of any software or other computer program used by the Servicer, any Originator or any Sub-Servicer in the servicing of the Pool Receivables, other than those which have been obtained and are in full force and effect.

(n) *Servicing of Pool Receivables.* Since the Closing Date there has been no material adverse change in the ability of the Servicer or any Sub-Servicer to service and collect the Pool Receivables and the Related Security.

(o) *Other Transaction Documents.* Each representation and warranty made by the Servicer under each other Transaction Document to which it is a party (including, without limitation, each Receivables Purchase Agreement) is true and correct in all material respects as of the date when made, except for representations and warranties which apply as to an earlier date (in which case such representations and warranties shall be true and correct in all material respects as of such date).

(p) *No Material Adverse Effect.* Since December 31, 2015 there has been no Material Adverse Effect on the Servicer.

(q) *Investment Company Act.* The Servicer is not an “investment company,” or a company “controlled” by an “investment company,” within the meaning of the Investment Company Act.

(r) *Anti-Money Laundering/International Trade Law Compliance.* No Covered Entity is a Sanctioned Person. To the Servicer’s knowledge, no Obligor was a Sanctioned Person at the time of origination of any Pool Receivable owing by such Obligor. None of the Borrower, the Servicer or any Originator, either in its own right or through any third party, (i) has any of its assets in a Sanctioned Country or in the possession, custody or control of a Sanctioned Person in violation of any Anti-Terrorism Law; (ii) does business in or with, or derives any of its income from investments in or transactions with, any Sanctioned Country or Sanctioned Person in violation of any Anti-Terrorism Law; or (iii) engages in any dealings or transactions prohibited by any Anti-Terrorism Law.

(s) *Financial Condition.* The consolidated balance sheets of the Servicer and its consolidated Subsidiaries as of December 31, 2015 and the related statements of income and shareholders’ equity of the Servicer and its consolidated Subsidiaries for the fiscal year then ended, copies of which have been furnished to the Administrative Agent and the LC Bank, present fairly in all material respects the consolidated financial position of the Servicer and its consolidated Subsidiaries for the period ended on such date, all in accordance with GAAP.

(t) *Bulk Sales Act.* No transaction contemplated by this Agreement requires compliance by it with any bulk sales act or similar law.

(u) *Taxes.* The Servicer has (i) timely filed all tax returns (federal, state and local) required to be filed by it and (ii) paid, or caused to be paid, all taxes, assessments and other governmental charges, if any, other than (a) taxes, assessments and other governmental charges being contested in good faith by appropriate proceedings and as to which adequate

reserves have been provided in accordance with GAAP or (b) to the extent that the failure to do so could not reasonably be expected to result in a Material Adverse Effect.

(v) *Opinions.* The facts regarding the Borrower, the Servicer, each Originator, the Performance Guarantor, the Receivables, the Related Security and the related matters set forth or assumed in each of the opinions of counsel delivered in connection with this Agreement and the Transaction Documents are true and correct in all material respects.

(w) *Reaffirmation of Representations and Warranties.* On the date of each Credit Extension, on the date of each Reinvestment, on each Settlement Date and on the date each Information Package or other report is delivered to the Administrative Agent or the LC Bank hereunder, the Servicer shall be deemed to have certified that (i) all representations and warranties of the Servicer hereunder are true and correct in all material respects on and as of such day as though made on and as of such day, except for representations and warranties which apply as to an earlier date (in which case such representations and warranties shall be true and correct in all material respects as of such date) and (ii) no Event of Default or an Unmatured Event of Default has occurred and is continuing or will result from such Credit Extension or Reinvestment.

Notwithstanding any other provision of this Agreement or any other Transaction Document, the representations contained in this Section 7.02 shall be continuing, and remain in full force and effect until the Final Payout Date.

ARTICLE VIII

COVENANTS

Section 8.01. Covenants of the Borrower. At all times from the Closing Date until the Final Payout Date:

(a) *Payment of Principal and Interest.* The Borrower shall duly and punctually pay Reimbursement Obligations, Interest, Fees and all other amounts payable by the Borrower hereunder in accordance with the terms of this Agreement.

(b) *Existence.* The Borrower shall keep in full force and effect its existence and rights as a limited liability company under the laws of the State of Ohio, and shall obtain and preserve its qualification to do business in each jurisdiction in which such qualification is or shall be necessary to protect the validity and enforceability of this Agreement, the other Transaction Documents and the Collateral.

(c) *Financial Reporting.* The Borrower will maintain a system of accounting established and administered in accordance with GAAP, and the Borrower (or the Servicer on its behalf) shall furnish to the Administrative Agent and the LC Bank:

(i) *Annual Financial Statements of the Borrower.* Promptly upon completion and in no event later than ninety (90) days after the close of each fiscal year of the Borrower, annual unaudited financial statements of the Borrower certified by a Financial Officer of the Borrower that they fairly present in all material respects, in accordance with GAAP, the financial condition of the Borrower as of the date indicated and the results of its operations for the periods indicated.

(ii) *Information Packages.* (x) As soon as available and in any event not later than two (2) Business Days prior to each Settlement Date, an Information Package as of the most recently completed Fiscal Month, and (y) within two (2) Business Days following a request from time to time by the Administrative Agent, an interim report on the Pool Receivables containing such information as the Administrative Agent may reasonably request.

(iii) *Other Information.* Such other information (including non-financial information) as the Administrative Agent or the LC Bank may from time to time reasonably request.

(iv) *Quarterly Financial Statements of Davey Tree.* As soon as available and in no event later than fifty (50) days following the end of each of the first three (3) fiscal quarters in each of the Servicer's fiscal years, (A) the unaudited consolidated balance sheet and statements of income of the Servicer and its consolidated Subsidiaries as at the end of such fiscal quarter and the related unaudited consolidated statements of earnings and cash flows for such fiscal quarter and for the elapsed portion of the fiscal year ended with the last day of such fiscal quarter, in each case setting forth comparative figures for the corresponding fiscal quarter in the prior fiscal year, all of which shall be certified by a Financial Officer of Davey Tree that they fairly present in all material respects, in accordance with GAAP, the financial condition of Davey Tree and its consolidated Subsidiaries as of the dates indicated and the results of their operations for the periods indicated, subject to normal year-end audit adjustments and the absence of footnotes.

(v) *Annual Financial Statements of Davey Tree.* Within one hundred (100) days after the close of each of Davey Tree's fiscal years, the consolidated balance sheet of Davey Tree and its consolidated Subsidiaries as at the end of such fiscal year and the related consolidated statements of earnings and cash flows for such fiscal year setting forth comparative figures for the preceding fiscal year, all reported on by independent certified public accountants of recognized national standing (without a "going concern" or like qualification or exception) to the effect that such consolidated financial statements present fairly in all material respects, in accordance with GAAP, the financial condition of Davey Tree and its consolidated Subsidiaries as of the dates indicated and the results of their operations for the periods indicated.

(vi) *Other Reports and Filings.* Promptly (but in any event within ten (10) days) after the filing or delivery thereof, copies of all financial information, proxy materials, reports, if any, which Davey Tree or any of its consolidated Subsidiaries shall publicly file with the SEC or deliver to holders (or any trustee, agent or other representative therefor) of any of its material Debt pursuant to the terms of the documentation governing the same.

Notwithstanding anything herein to the contrary, any financial information, proxy statements or other material required to be delivered pursuant to this paragraph (c) shall be deemed to have been furnished to each of the Administrative Agent and the LC Bank on the date that such report, proxy statements or other material is posted on the SEC's website at www.sec.gov.

(d) *Notices.* The Borrower (or the Servicer on its behalf) will notify the Administrative Agent and the LC Bank in writing of any of the following events promptly upon (but in no event later than two (2) Business Days after (other than with respect to clause (v) below) a Financial Officer or other officer learning of the occurrence thereof, with such notice describing the same, and if applicable, the steps being taken by the Person(s) affected with respect thereto:

(i) *Notice of Events of Default or Unmatured Events of Default.* A statement of a Financial Officer of the Borrower setting forth details of any Event of Default or Unmatured Event of Default that has occurred and is continuing and the action which the Borrower has taken proposes to take with respect thereto.

(ii) *Representations and Warranties.* The failure of any representation or warranty made or deemed to be made by the Borrower under this Agreement or any other Transaction Document to be true and correct in any material respect when made or deemed made.

(iii) *Litigation.* The institution of any litigation, arbitration proceeding or governmental proceeding on the Borrower, the Servicer, the Performance Guarantor or any Originator, which with respect to any Person other than the Borrower that, if adversely determined, could reasonably be expected to have a Material Adverse Effect.

(iv) *Adverse Claim.* (A) Any Person shall obtain an Adverse Claim upon the Collateral or any material portion thereof, (B) any Person other than the Borrower, the Servicer or the Administrative Agent shall obtain any rights or direct any action with respect to any Collection Account (or related Lock-Box) or (C) any Obligor shall receive any change in payment instructions with respect to Pool Receivable(s) from a Person other than the Borrower, the Originators at the request of the Borrower, the Servicer or the Administrative Agent.

(v) *Name Changes.* At least thirty (30) days before any change in any Originator's or the Borrower's name, jurisdiction of organization or any other change

requiring the amendment of, or the filing of new, UCC financing statements, a notice setting forth such changes and the effective date thereof.

(vi) *Change in Accountants or Accounting Policy.* Any change in (i) the external accountants of the Borrower, the Servicer, any Originator, or the Performance Guarantor, (ii) any accounting policy of the Borrower, or (iii) any material accounting policy of any Originator that is relevant to the transactions contemplated by this Agreement or any other Transaction Document (it being understood that any change to the manner in which any Originator accounts for the Pool Receivables shall be deemed “material” for such purpose).

(vii) *Receivables Purchase Termination Event.* The occurrence of a Receivables Purchase Termination Event under the Receivables Purchase Agreement.

(viii) *Material Adverse Change.* Promptly after the occurrence thereof, notice of any material adverse change in the business, operations, property or financial or other condition of the Borrower, the Servicer, any Originator or the Performance Guarantor.

(e) *Conduct of Business.* The Borrower will carry on and conduct its business in substantially the same manner and in substantially the same fields of enterprise as it is presently conducted and will do all things necessary to remain duly organized, validly existing and in good standing as a domestic organization in its jurisdiction of organization and maintain all requisite authority to conduct its business in each jurisdiction in which its business is conducted, except where the failure to maintain such authority could not reasonably be expected to have a Material Adverse Effect.

(f) *Compliance with Laws.* The Borrower will comply with all Applicable Laws to which it may be subject if the failure to comply could reasonably be expected to have a Material Adverse Effect.

(g) *Furnishing of Information and Inspection of Receivables.* The Borrower will furnish or cause to be furnished to the Administrative Agent and the LC Bank from time to time such information with respect to the Pool Receivables and the other Collateral as the Administrative Agent and the LC Bank may reasonably request. The Borrower will, at the Borrower’s expense, during regular business hours with reasonable prior written notice (i) permit the Administrative Agent and the LC Bank or their respective agents or representatives to (A) examine and make copies of and abstracts from all books and records relating to the Pool Receivables or other Collateral, (B) visit the offices and properties of the Borrower for the purpose of examining such books and records and (C) discuss matters relating to the Pool Receivables, the other Collateral or the Borrower’s performance hereunder or under the other Transaction Documents to which it is a party with any of the officers, directors, employees or independent public accountants of the Borrower having knowledge of such matters and (ii) without limiting the provisions of clause (i) above, during

regular business hours, at the Borrower's expense, upon reasonable prior written notice from the Administrative Agent, permit certified public accountants or other auditors acceptable to the Administrative Agent to conduct a review of its books and records with respect to such Pool Receivables and other Collateral; provided, that the Borrower shall be required to reimburse the Administrative Agent for only one (1) such review pursuant to clauses (i) and (ii) above in any twelve-month period, unless an Event of Default has occurred and is continuing.

(h) *Payments on Receivables, Collection Accounts.* The Borrower (or the Servicer on its behalf) will, and will cause each Originator to, at all times, instruct all Obligors to deliver payments on the Pool Receivables to a Collection Account or a Lock-Box. The Borrower (or the Servicer on its behalf) will, and will cause each Originator to, at all times, maintain such books and records necessary to identify Collections received from time to time on Pool Receivables and to segregate such Collections from other property of the Servicer and the Originators. If any payments on the Pool Receivables or other Collections are received by the Borrower, the Servicer or an Originator, it shall hold such payments in trust for the benefit of the Administrative Agent and the other Secured Parties and promptly (but in any event within one (1) Business Day after receipt) remit such funds into a Collection Account. The Borrower (or the Servicer on its behalf) will cause each Collection Account Bank to comply with the terms of each applicable Account Control Agreement. The Borrower shall not permit funds other than Collections on Pool Receivables and other Collateral to be deposited into any Collection Account. If such funds are nevertheless deposited into any Collection Account, the Borrower (or the Servicer on its behalf) will within two (2) Business Days identify and transfer such funds to the appropriate Person entitled to such funds. The Borrower will not, and will not permit the Servicer, any Originator or any other Person to commingle Collections or other funds to which the Administrative Agent or any other Secured Party is entitled, with any other funds. The Borrower shall only add a Collection Account (or a related Lock-Box) or a Collection Account Bank to those listed on Schedule II to this Agreement, if the Administrative Agent has received notice of such addition and an executed and acknowledged copy of an Account Control Agreement (or an amendment thereto) in form and substance acceptable to the Administrative Agent from the applicable Collection Account Bank. The Borrower shall only terminate a Collection Account Bank or close a Collection Account (or a related Lock-Box) with the prior written consent of the Administrative Agent, which consent shall not be unreasonably withheld, conditioned or delayed. Upon receipt from any Collection Account Bank of notice that such Collection Account Bank is terminating or intends to terminate any Account Control Agreement, the Borrower (or the Servicer on its behalf) will, and will cause each Originator to, at all times, instruct all Obligors to deliver payments on the Pool Receivables to a different Collection Account or a Lock-Box that is subject to an Account Control Agreement that has not been terminated (or that the applicable Collection Account Bank does not intend to terminate).

(i) *Sales, Liens, etc.* Except as otherwise provided herein, the Borrower will not sell, assign (by operation of law or otherwise) or otherwise dispose of, or create or suffer to exist any Adverse Claim upon (including, without limitation, the filing of any financing

statement) or with respect to, any Pool Receivable or other Collateral, or assign any right to receive income in respect thereof.

(j) *Extension or Amendment of Pool Receivables; Compliance with Credit and Collection Policy.* Except as otherwise permitted in Section 9.02, the Borrower will not, and will not permit the Servicer to, alter the delinquency status or adjust the Outstanding Balance or otherwise modify the terms of any Pool Receivable in any material respect, or amend, modify or waive, in any material respect, any term or condition of any related Contract. The Borrower shall at its expense, timely and fully perform and comply in all material respects with all provisions, covenants and other promises required to be observed by it under the Contracts related to the Pool Receivables, and timely and fully comply with the Credit and Collection Policy with regard to each Pool Receivable and the related Contract.

(k) *Changes to Credit and Collection Policy.* The Borrower will not make any material change in the Credit and Collection Policy without the prior written consent of the Administrative Agent and the LC Bank, which consent shall not be unreasonably withheld, conditioned or delayed. Promptly following any change in the Credit and Collection Policy, the Borrower will deliver a copy of the updated Credit and Collection Policy to the Administrative Agent and the LC Bank.

(l) *Fundamental Changes.* The Borrower shall not, without the prior written consent of the Administrative Agent and the LC Bank, permit itself (i) to merge or consolidate with or into, or convey, transfer, lease or otherwise dispose of (whether in one transaction or in a series of transactions) all or substantially all of its assets (whether now owned or hereafter acquired) to, any Person or (ii) to be directly owned by any Person other than Davey Tree. The Borrower shall provide the Administrative Agent with at least thirty (30) days' prior written notice before making any change in the Borrower's name or location or making any other change in the Borrower's identity or corporate structure that could impair or otherwise render any UCC financing statement filed in connection with this Agreement or any other Transaction Document "seriously misleading" as such term (or similar term) is used in the applicable UCC; each notice to the Administrative Agent pursuant to this sentence shall set forth the applicable change and the proposed effective date thereof.

(m) *Books and Records.* The Borrower shall maintain and implement (or cause the Servicer to maintain and implement) administrative and operating procedures (including an ability to recreate records evidencing Pool Receivables and related Contracts in the event of the destruction of the originals thereof), and keep and maintain (or cause the Servicer to keep and maintain) all documents, books, records, computer tapes and disks and other information reasonably necessary or advisable for the collection of all Pool Receivables (including records adequate to permit the daily identification of each Pool Receivable and all Collections of and adjustments to each existing Pool Receivable).

(n) *Identifying of Records.* The Borrower shall: (i) identify (or cause the Servicer to identify) its master data processing records relating to Pool Receivables and related Contracts with a legend that indicates that the Pool Receivables have been pledged in accordance with this Agreement and (ii) cause each Originator to identify its master data processing records with such a legend.

(o) *Change in Payment Instructions to Obligors.* The Borrower shall not (and shall not permit the Servicer or any Sub-Servicer to) add, replace or terminate any Collection Account (or any related Lock-Box) or make any change in its (or their) instructions to the Obligors regarding payments to be made to the Collection Accounts (or any related Lock-Box), other than any instruction to remit payments to a different Collection Account (or any related Lock-Box), unless the Administrative Agent shall have received (i) prior written notice of such addition, termination or change and (ii) a signed and acknowledged Account Control Agreement (or an amendment thereto) with respect to such new Collection Accounts (or any related Lock-Box), and the Administrative Agent shall have consented to such change in writing, which consent shall not be unreasonably withheld, conditioned or delayed.

(p) *Security Interest, Etc.* The Borrower shall (and shall cause the Servicer to), at its expense, take all action necessary or reasonably desirable to establish and maintain a valid and enforceable first priority perfected security interest in the Collateral, in each case free and clear of any Adverse Claim, in favor of the Administrative Agent (on behalf of the Secured Parties), including taking such action to perfect, protect or more fully evidence the security interest of the Administrative Agent (on behalf of the Secured Parties) as the Administrative Agent or any Secured Party may reasonably request. In order to evidence the security interests of the Administrative Agent under this Agreement, the Borrower shall, from time to time take such action, or execute and deliver such instruments as may be necessary (including, without limitation, such actions as are reasonably requested by the Administrative Agent) to maintain and perfect, as a first-priority interest, the Administrative Agent's security interest in the Receivables, Related Security and Collections. The Borrower shall, from time to time and within the time limits established by applicable law, prepare and present to the Administrative Agent for the Administrative Agent's authorization and approval, all financing statements, amendments, continuations or initial financing statements in lieu of a continuation statement, or other filings necessary to continue, maintain and perfect the Administrative Agent's security interest as a first-priority interest. The Administrative Agent's approval of such filings shall authorize the Borrower to file such financing statements under the UCC without the signature of the Borrower, any Originator or the Administrative Agent where allowed by Applicable Law. Notwithstanding anything else in the Transaction Documents to the contrary, the Borrower shall not have any authority to file a termination, partial termination, release, partial release, or any amendment that deletes the name of a debtor or excludes collateral of any such financing statements filed in connection with the Transaction Documents, without the prior written consent of the Administrative Agent, except as set forth in Section 5.06(c) hereof.

(q) *Certain Agreements.* Other than in connection with the Final Payout Date, without the prior written consent of the Administrative Agent and the LC Bank, the Borrower will not (and will not permit any Originator or the Servicer to) amend, modify, waive, revoke or terminate any Transaction Document to which it is a party or any provision of the Borrower's organizational documents which requires the consent of the "Independent Manager" (as such term is used in the Borrower's Operating Agreement).

(r) *Other Business.* The Borrower will not: (i) engage in any business other than the transactions contemplated by the Transaction Documents, (ii) create, incur or permit to exist any Debt of any kind (or cause or permit to be issued for its account any letters of credit (excluding, for the avoidance of doubt, Letters of Credit issued hereunder)) or bankers' acceptances other than pursuant to this Agreement or the Subordinated Notes or (iii) form any Subsidiary or make any investments in any other Person.

(s) *Restricted Payments.* (i) Except pursuant to clause (ii) below, the Borrower will not: (A) purchase or redeem any of its membership interests, (B) declare or pay any dividend or set aside any funds for any such purpose, (C) prepay, purchase or redeem any Debt (other than any Borrower Obligations), (D) lend or advance any funds or (E) repay any loans or advances to, for or from any of its Affiliates (the amounts described in clauses (A) through (E) being referred to as "*Restricted Payments*").

(ii) Subject to the limitations set forth in clause (iii) below, the Borrower may make Restricted Payments so long as such Restricted Payments are made only in one or more of the following ways: (A) the Borrower may make cash payments (including prepayments) on the Subordinated Notes in accordance with their respective terms and (B) the Borrower may declare and pay dividends if, both immediately before and immediately after giving effect thereto, the Borrower's Net Worth is not less than the Required Capital Amount.

(iii) The Borrower may make Restricted Payments only out of the funds, if any, it receives pursuant to Sections 4.01 of this Agreement; *provided*, that the Borrower shall not pay, make or declare any Restricted Payment (including any dividend) if, after giving effect thereto, any Event of Default or Unmatured Event of Default shall have occurred and be continuing.

(t) *Use of Collections Available to the Borrower.* The Borrower shall apply the Collections available to the Borrower to make payments in the following order of priority: (i) the payment (or securing) of its obligations under this Agreement and each of the other Transaction Documents (other than the Subordinated Notes), (ii) the payment of accrued and unpaid interest on the Subordinated Notes and (iii) other legal and valid purposes.

(u) *Further Assurances; Change in Name or Jurisdiction of Organization, etc.*
(i) The Borrower hereby authorizes and hereby agrees from time to time, at its own expense, promptly to execute (if necessary) and deliver all further instruments and documents, and to take all further actions, that may be necessary or desirable, or that the Administrative

Agent may reasonably request, to perfect, protect or more fully evidence the security interest granted pursuant to this Agreement or any other Transaction Document, or to enable the Administrative Agent (on behalf of the Secured Parties) to exercise and enforce the Secured Parties' rights and remedies under this Agreement and the other Transaction Documents. Without limiting the foregoing, the Borrower hereby authorizes, and will, upon the request of the Administrative Agent, at the Borrower's own expense, execute (if necessary) and file such financing statements or continuation statements, or amendments thereto, and such other instruments and documents, that may be necessary or desirable, or that the Administrative Agent may reasonably request, to perfect, protect or evidence any of the foregoing.

(ii) The Borrower authorizes the Administrative Agent to file financing statements, continuation statements and amendments thereto and assignments thereof, relating to the Receivables, the Related Security, the related Contracts, Collections with respect thereto and the other Collateral without the signature of the Borrower. A photocopy or other reproduction of this Agreement shall be sufficient as a financing statement where permitted by law.

(iii) The Borrower shall at all times be organized under the laws of the State of Ohio and shall not take any action to change its jurisdiction of organization.

(iv) The Borrower will not change its name, location, identity or corporate structure unless (x) the Borrower, at its own expense, shall have taken all action necessary or appropriate to perfect or maintain the perfection of the security interest under this Agreement (including, without limitation, the filing of all financing statements and the taking of such other action as the Administrative Agent may reasonably request in connection with such change or relocation) and (y) if requested by the Administrative Agent, the Borrower shall cause to be delivered to the Administrative Agent, an opinion, in form and substance reasonably satisfactory to the Administrative Agent as to such UCC perfection and priority matters as the Administrative Agent may request at such time.

(v) *OFAC*. The Borrower has not used and will not use the proceeds of any Credit Extension to fund any operations in, finance any investments or activities in or make any payments to, a Sanctioned Person or a Sanctioned Country.

(w) *Anti-Money Laundering/International Trade Law Compliance*. No Covered Entity will become a Sanctioned Person. None of the Borrower, the Servicer or any Originator, either in its own right or through any third party, will (i) have any of its assets in a Sanctioned Country or in the possession, custody or control of a Sanctioned Person in violation of any Anti-Terrorism Law; (ii) do business in or with, or derive any of its income from investments in or transactions with, any Sanctioned Country or Sanctioned Person in violation of any Anti-Terrorism Law; (iii) engage in any dealings or transactions prohibited by any Anti-Terrorism Law or (iv) use the proceeds of any Credit Extension to fund any operations in, finance any investments or activities in, or, make any payments to, a Sanctioned Country or Sanctioned Person in violation of any Anti-Terrorism Law. The funds used to

repay each Credit Extension will not be derived from any unlawful activity. The Borrower shall comply with all Anti-Terrorism Laws applicable to it. The Borrower shall promptly notify the Administrative Agent and the LC Bank in writing upon the occurrence of a Reportable Compliance Event with respect to the Borrower, the Servicer, any Originator, or any Subsidiary thereof and upon becoming aware of the occurrence of a Reportable Compliance Event with respect to any other Covered Entity.

(x) *Borrower's Net Worth.* The Borrower shall not permit the Borrower's Net Worth to be less than the Required Capital Amount; *provided*, that the foregoing shall not require Davey Tree to make any additional capital contributions to the Borrower.

(y) *Credit Risk Retention.* The Borrower shall cooperate with each Credit Party (including by providing such information and entering into or delivering such additional agreements or documents reasonably requested by such Credit Party) to the extent reasonably necessary to assure such Credit Party that the Originators retain credit risk in the amount and manner required by the Credit Risk Retention Rules and to permit such Credit Party to perform its due diligence and monitoring obligations (if any) under the Credit Risk Retention Rules.

Section 8.02. Covenants of the Servicer. At all times from the Closing Date until the Final Payout Date:

(a) *Financial Reporting.* The Servicer will maintain a system of accounting established and administered in accordance with GAAP, and the Servicer shall furnish to the Administrative Agent and the LC Bank:

(i) *Quarterly Financial Statements of Servicer.* As soon as available and in no event later than fifty (50) days following the end of each of the first three fiscal quarters in each of the Servicer's fiscal years, (A) the unaudited consolidated balance sheet and statements of income of the Servicer and its consolidated Subsidiaries as at the end of such fiscal quarter and the related unaudited consolidated statements of earnings and cash flows for such fiscal quarter and for the elapsed portion of the fiscal year ended with the last day of such fiscal quarter, in each case setting forth comparative figures for the corresponding fiscal quarter in the prior fiscal year, all of which shall be certified by a Financial Officer of Davey Tree that they fairly present in all material respects, in accordance with GAAP, the financial condition of the Servicer and its consolidated Subsidiaries as of the dates indicated and the results of their operations for the periods indicated, subject to normal year-end audit adjustments and the absence of footnotes.

(ii) *Annual Financial Statements of the Servicer.* Within one hundred (100) days after the close of each of Servicer's fiscal years, the consolidated balance sheet of the Servicer and its consolidated Subsidiaries as at the end of such fiscal year and the related consolidated statements of earnings and cash flows for such fiscal year setting forth comparative figures for the preceding fiscal year, all reported

on by independent certified public accountants of recognized national standing (without a “going concern” or like qualification or exception) to the effect that such consolidated financial statements present fairly in all material respects, in accordance with GAAP, the financial condition of the Servicer and its consolidated Subsidiaries as of the dates indicated and the results of their operations for the periods indicated.

(iii) *Compliance Certificates.* (a) A compliance certificate promptly upon delivery to the Administrative Agent and the LC Bank of the audited financial statements pursuant to Section 8.01(c)(v) and in no event later than one hundred (100) days after the close of the Servicer’s fiscal year, in form and substance substantially similar to Exhibit G signed by a Financial Officer of the Servicer, solely in his or her capacity as an officer of the Servicer, stating that no Event of Default or Unmatured Event of Default has occurred and is continuing, or if any Event of Default or Unmatured Event of Default has occurred and is continuing, stating the nature and status thereof and (b) within fifty (50) days after the close of each fiscal quarter of the Servicer, a compliance certificate in form and substance substantially similar to Exhibit G signed by a Financial Officer of the Servicer, solely in his or her capacity as an officer of the Servicer, stating that no Event of Default or Unmatured Event of Default has occurred and is continuing, or if any Event of Default or Unmatured Event of Default has occurred and is continuing, stating the nature and status thereof.

(iv) *Information Packages.* (x) As soon as available and in any event not later than two (2) Business Days prior to each Settlement Date, an Information Package as of the most recently completed Fiscal Month and (y) within two (2) Business Days following a request from time to time by the Administrative Agent, an interim report on the Pool Receivables containing such information as the Administrative Agent may reasonably request.

(v) *Other Reports and Filings.* Promptly (but in any event within ten days) after the filing or delivery thereof, copies of all financial information, proxy materials and reports, if any, which the Servicer or any of its consolidated Subsidiaries shall publicly file with the SEC or deliver to holders (or any trustee, agent or other representative therefor) of any of its material Debt pursuant to the terms of the documentation governing the same.

(vi) *Other Information.* Such other information (including non-financial information) as the Administrative Agent or the LC Bank may from time to time reasonably request, including any information available to the Borrower, the Servicer or any Originator as the Administrative Agent or the LC Bank may reasonably request.

Notwithstanding anything herein to the contrary, any financial information, proxy statements or other material required to be delivered pursuant to this paragraph (a) shall be deemed to have been furnished to each of the Administrative Agent and the LC Bank on the date that such report, proxy statements or other material is posted on the SEC's website at www.sec.gov.

(b) *Notices.* The Servicer will notify the Administrative Agent and the LC Bank in writing of any of the following events promptly upon (but in no event later than two (2) Business Days after (other than with respect to clause (v) below)) a Financial Officer or other officer learning of the occurrence thereof, with such notice describing the same, and if applicable, the steps taken or being taken by the Person(s) affected with respect thereto:

(i) *Notice of Events of Default or Unmatured Events of Default.* A statement of a Financial Officer of the Servicer setting forth details of any Event of Default or Unmatured Event of Default that has occurred and is continuing and the action which the Servicer has taken or proposes to take with respect thereto.

(ii) *Representations and Warranties.* The failure of any representation or warranty made or deemed made by the Servicer under this Agreement or any other Transaction Document to be true and correct in any material respect when made or deemed made.

(iii) *Litigation.* The institution of any litigation, arbitration proceeding or governmental proceeding which could reasonably be expected to have a Material Adverse Effect.

(iv) *Adverse Claim.* (A) Any Person shall obtain an Adverse Claim upon the Collateral or any material portion thereof, (B) any Person other than the Borrower, the Servicer or the Administrative Agent shall obtain any rights or direct any action with respect to any Collection Account (or related Lock-Box) or (C) any Obligor shall receive any change in payment instructions with respect to Pool Receivable(s) from a Person other than the Borrower, the Servicer or the Administrative Agent.

(v) *Name Changes.* At least thirty (30) days before any change in any Originator's or the Borrower's name, jurisdiction of organization or any other change requiring the amendment of, or the filing of new, UCC financing statements, a notice setting forth such changes and the effective date thereof.

(vi) *Change in Accountants or Accounting Policy.* Any change in (i) the external accountants of the Borrower, the Servicer, any Originator or the Performance Guarantor, (ii) any accounting policy of the Servicer or the Borrower or (iii) any material accounting policy of any Originator that is relevant to the transactions contemplated by this Agreement or any other Transaction Document (it being

understood that any change to the manner in which any Originator accounts for the Pool Receivables shall be deemed “material” for such purpose).

(vii) *Material Adverse Change*. Promptly after the occurrence thereof, notice of any material adverse change in the business, operations, property or financial or other condition of any Originator, the Servicer, the Performance Guarantor, or the Borrower.

(c) *Conduct of Business*. The Servicer will do all things necessary to remain duly incorporated, validly existing and in good standing as a domestic corporation in its jurisdiction of incorporation and maintain all requisite authority to conduct its business in each jurisdiction in which its business is conducted if the failure to have such authority could reasonably be expected to have a Material Adverse Effect.

(d) *Compliance with Laws*. The Servicer will comply with all Applicable Laws to which it may be subject if the failure to comply could reasonably be expected to have a Material Adverse Effect. The Servicer shall service the Receivables in accordance with the terms hereof and the terms of the related Contracts.

(e) *Furnishing of Information and Inspection of Receivables*. The Servicer will furnish or cause to be furnished to the Administrative Agent and the LC Bank from time to time such information with respect to the Pool Receivables and the other Collateral as the Administrative Agent or the LC Bank may reasonably request. The Servicer will, at the Servicer’s expense, during regular business hours with reasonable prior written notice, (i) permit the Administrative Agent and the LC Bank or their respective agents or representatives to (A) examine and make copies of and abstracts from all books and records relating to the Pool Receivables or other Collateral, (B) visit the offices and properties of the Servicer for the purpose of examining such books and records and (C) discuss matters relating to the Pool Receivables, the other Collateral or the Servicer’s performance hereunder or under the other Transaction Documents to which it is a party with any of the officers, directors, employees or independent public accountants of the Servicer (provided, that representatives of the Servicer are present during such discussions) having knowledge of such matters and (ii) without limiting the provisions of clause (i) above, during regular business hours, at the Servicer’s expense, upon reasonable prior written notice from the Administrative Agent, permit certified public accountants or other auditors acceptable to the Administrative Agent to conduct a review of its books and records with respect to the Pool Receivables and other Collateral; *provided*, that the Servicer shall be required to reimburse the Administrative Agent for only one (1) such review pursuant to clause (ii) above in any twelve-month period unless an Event of Default has occurred and is continuing.

(f) *Payments on Receivables, Collection Accounts*. The Servicer will at all times, instruct all Obligor to deliver payments on the Pool Receivables to a Collection Account or a Lock-Box. The Servicer will, at all times, maintain such books and records necessary to identify Collections received from time to time on Pool Receivables and to segregate such Collections from other property of the Servicer and the Originators. If any payments

on the Pool Receivables or other Collections are received by the Borrower, the Servicer or an Originator, it shall hold such payments in trust for the benefit of the Administrative Agent and the other Secured Parties and promptly (but in any event within one (1) Business Day after receipt) remit such funds into a Collection Account. The Servicer shall not permit funds other than Collections on Pool Receivables and other Collateral to be deposited into any Collection Account. If such funds are nevertheless deposited into any Collection Account, the Servicer will within two (2) Business Days identify and transfer such funds to the appropriate Person entitled to such funds. The Servicer will not, and will not permit the Borrower, any Originator or any other Person to commingle Collections or other funds to which the Administrative Agent or any other Secured Party is entitled, with any other funds. The Servicer shall only add a Collection Account (or a related Lock-Box), or a Collection Account Bank to those listed on Schedule II to this Agreement, if the Administrative Agent has received notice of such addition and an executed and acknowledged copy of an Account Control Agreement (or an amendment thereto) in form and substance acceptable to the Administrative Agent from the applicable Collection Account Bank. The Servicer shall only terminate a Collection Account Bank or close a Collection Account (or a related Lock-Box) with the prior written consent of the Administrative Agent, which consent shall not be unreasonably withheld, conditioned or delayed. Upon receipt from any Collection Account Bank of notice that such Collection Account Bank is terminating or intends to terminate any Account Control Agreement, the Servicer will, and will cause each Originator to, at all times, instruct all Obligors to deliver payments on the Pool Receivables to a different Collection Account or a Lock-Box that is subject to an Account Control Agreement that has not been terminated (or that the applicable Collection Account Bank does not intend to terminate).

(g) *Extension or Amendment of Pool Receivables; Compliance with Credit and Collection Policy.* Except as otherwise permitted in Section 9.02, the Servicer will not alter the delinquency status or adjust the Outstanding Balance or otherwise modify the terms of any Pool Receivable in any material respect, or amend, modify or waive, in any material respect, any term or condition of any related Contract. The Servicer shall at its expense, timely and fully perform and comply in all material respects with all provisions, covenants and other promises required to be observed by it under the Contracts related to the Pool Receivables, and timely and fully comply with the Credit and Collection Policy with regard to each Pool Receivable and the related Contract.

(h) *Changes to Credit and Collection Policy.* The Servicer will not make any material change in the Credit and Collection Policy without the prior written consent of the Administrative Agent and the LC Bank, which consent shall not be unreasonably withheld, conditioned or delayed. Promptly following any change in the Credit and Collection Policy, the Servicer will deliver a copy of the updated Credit and Collection Policy to the Administrative Agent and the LC Bank.

(i) *Records.* The Servicer will maintain and implement administrative and operating procedures (including an ability to recreate records evidencing Pool Receivables and related Contracts in the event of the destruction of the originals thereof), and keep and maintain all documents, books, records, computer tapes and disks and other information

reasonably necessary or advisable for the collection of all Pool Receivables (including records adequate to permit the daily identification of each Pool Receivable and all Collections of and adjustments to each existing Pool Receivable).

(j) *Identifying of Records.* The Servicer shall identify its master data processing records relating to Pool Receivables and related Contracts with a legend that indicates that the Pool Receivables have been pledged in accordance with this Agreement.

(k) *Change in Payment Instructions to Obligors.* The Servicer shall not (and shall not permit any Sub-Servicer to) add, replace or terminate any Collection Account (or any related Lock-Box) or make any change in its instructions to the Obligors regarding payments to be made to the Collection Accounts (or any related Lock-Box), other than any instruction to remit payments to a different Collection Account (or any related Lock-Box), unless the Administrative Agent shall have received (i) prior written notice of such addition, termination or change and (ii) a signed and acknowledged Account Control Agreement (or an amendment thereto) with respect to such new Collection Accounts (or any related Lock-Box) and the Administrative Agent shall have consented to such change in writing, which consent shall not be unreasonably withheld, conditioned or delayed.

(l) *Security Interest, Etc.* The Servicer shall, at its expense, take all action necessary or reasonably desirable to establish and maintain a valid and enforceable first priority perfected security interest in the Collateral, in each case free and clear of any Adverse Claim in favor of the Administrative Agent (on behalf of the Secured Parties), including taking such action to perfect, protect or more fully evidence the security interest of the Administrative Agent (on behalf of the Secured Parties) as the Administrative Agent or any Secured Party may reasonably request. In order to evidence the security interests of the Administrative Agent under this Agreement, the Servicer shall, from time to time take such action, or execute and deliver such instruments as may be necessary (including, without limitation, such actions as are reasonably requested by the Administrative Agent) to maintain and perfect, as a first-priority interest, the Administrative Agent's security interest in the Receivables, Related Security and Collections. The Servicer shall, from time to time and within the time limits established by law, prepare and present to the Administrative Agent for the Administrative Agent's authorization and approval, all financing statements, amendments, continuations, or initial financing statements in lieu of a continuation statement or other filings necessary to continue, maintain and perfect the Administrative Agent's security interest as a first-priority interest. The Administrative Agent's approval of such filings shall authorize the Servicer to file such financing statements under the UCC without the signature of the Borrower, any Originator or the Administrative Agent where allowed by Applicable Law. Except in connection with the Final Payout Date, notwithstanding anything else in the Transaction Documents to the contrary, the Servicer shall not have any authority to file a termination, partial termination, release, partial release, or any amendment that deletes the name of a debtor or excludes collateral of any such financing statements

filed in connection with the Transaction Documents, without the prior written consent of the Administrative Agent.

(m) *Further Assurances; Change in Name or Jurisdiction of Organization, etc.*

The Servicer hereby authorizes and hereby agrees from time to time, at its own expense, promptly to execute (if necessary) and deliver all further instruments and documents, and to take all further actions, that may be necessary or desirable, or that the Administrative Agent may reasonably request, to perfect, protect or more fully evidence the security interest granted pursuant to this Agreement or any other Transaction Document, or to enable the Administrative Agent (on behalf of the Secured Parties) to exercise and enforce their respective rights and remedies under this Agreement or any other Transaction Document. Without limiting the foregoing, the Servicer hereby authorizes, and will, upon the request of the Administrative Agent, at the Servicer's own expense, execute (if necessary) and file such financing statements or continuation statements, or amendments thereto, and such other instruments and documents, that may be necessary or desirable, or that the Administrative Agent may reasonably request, to perfect, protect or evidence any of the foregoing.

(n) *Tax Election.* If the Borrower is classified as a partnership for U.S. federal income tax purposes, then as of the date that Sections 6221 through 6241 of the Code (as enacted by the Bipartisan Budget Act of 2015, P.L. 114-74), including any other Code provisions for the same subject matter, and any related regulations (adopted or proposed) and administrative guidance are first applicable to the Borrower, the Servicer (i) is designated as the partnership representative of the Borrower under Section 6223(a) of the Code to the extent allowed under law and (ii) will or will cause the Borrower, to the extent eligible, to make the election under Section 6221(b) of the Code for determinations of adjustments at the partnership level and take any other action necessary or appropriate for the election. If that election is not available, to the extent applicable, the Servicer will or will cause the Borrower to make the election under Section 6226(a) of the Code for the alternative to payment of imputed underpayment by a partnership and take any other action necessary or appropriate for the election.

(o) *Anti-Money Laundering/International Trade Law Compliance.* No Covered Entity will become a Sanctioned Person. None of the Borrower, the Servicer or any Originator, either in its own right or through any third party, will (a) have any of its assets in a Sanctioned Country or in the possession, custody or control of a Sanctioned Person in violation of any Anti-Terrorism Law; (b) do business in or with, or derive any of its income from investments in or transactions with, any Sanctioned Country or Sanctioned Person in violation of any Anti-Terrorism Law; (c) engage in any dealings or transactions prohibited by any Anti-Terrorism Law or (d) use any Credit Extension to fund any operations in, finance any investments or activities in, or, make any payments to, a Sanctioned Country or Sanctioned Person in violation of any Anti-Terrorism Law. The funds used to repay each Credit Extension will not be derived from any unlawful activity. The Servicer shall comply with all Anti-Terrorism Laws applicable to it. The Servicer shall promptly notify the Administrative Agent and the LC Bank in writing upon the occurrence of a Reportable Compliance Event with respect to the Borrower, the Servicer, any Originator, or any

Subsidiary thereof and upon becoming aware of the occurrence of a Reportable Compliance Event with respect to any other Covered Entity.

(p) *Credit Risk Retention.* The Servicer shall, and shall cause each Originator to, cooperate with each Credit Party (including by providing such information and entering into or delivering such additional agreements or documents reasonably requested by such Credit Party) to the extent reasonably necessary to assure such Credit Party that the Originators retain credit risk in the amount and manner required by the Credit Risk Retention Rules and to permit such Credit Party to perform its due diligence and monitoring obligations (if any) under the Credit Risk Retention Rules.

Section 8.03. Separate Existence of the Borrower. Each of the Borrower and the Servicer hereby acknowledges that the Secured Parties and the Administrative Agent are entering into the transactions contemplated by this Agreement and the other Transaction Documents in reliance upon the Borrower's identity as a legal entity separate from any Originator, the Servicer, the Performance Guarantor and their Affiliates. Therefore, each of the Borrower and Servicer shall take all steps specifically required by this Agreement or reasonably required by the Administrative Agent or the LC Bank to continue the Borrower's identity as a separate legal entity and to make it apparent to third Persons that the Borrower is an entity with assets and liabilities distinct from those of the Performance Guarantor, the Originators, the Servicer and any other Person, and is not a division of the Performance Guarantor, the Originators, the Servicer, its Affiliates or any other Person. Without limiting the generality of the foregoing and in addition to and consistent with the other covenants set forth herein, each of the Borrower and the Servicer shall take such actions as shall be required in order that:

(a) *Special Purpose Entity.* The Borrower will be a special purpose company whose primary activities are restricted in its Articles of Organization or Operating Agreement to: (i) purchasing or otherwise acquiring from an Originator, owning, holding, granting security interests or selling interests in, the Collateral, (ii) entering into agreements for the selling, servicing and financing of the Receivables Pool (including the Transaction Documents) and (iii) conducting such other activities as it deems necessary or appropriate to carry out its primary activities.

(b) *No Other Business or Debt.* The Borrower shall not engage in any business or activity except as set forth in this Agreement nor, incur any indebtedness or liability other than as expressly permitted by the Transaction Documents.

(c) *Independent Director.* Not fewer than one member of the Borrower's board of directors (the "*Independent Director*") shall be a natural person who (i) has never been, and shall at no time be, an equityholder, director, officer, manager, member, partner, officer, employee or associate, or any relative of the foregoing, of any member of the Davey Tree Group (as hereinafter defined) (other than his or her service as an Independent Director of the Borrower or an independent director of any other bankruptcy-remote special purpose entity formed for the sole purpose of securitizing, or facilitating the securitization of, financial assets of any member or members of the Davey Tree Group), (ii) is not a customer

or supplier of any member of the Davey Tree Group (other than his or her service as an Independent Director of the Borrower or an independent director of any other bankruptcy-remote special purpose entity formed for the sole purpose of securitizing, or facilitating the securitization of, financial assets of any member or members of the Davey Tree Group), (iii) is not any member of the immediate family of a person described in (i) or (ii) above, and (iv) has (x) prior experience as an independent director for a corporation or limited liability company whose organizational or charter documents required the unanimous consent of all independent directors thereof before such corporation or limited liability company could consent to the institution of bankruptcy or insolvency proceedings against it or could file a petition seeking relief under any applicable federal or state law relating to bankruptcy and (y) at least three years of employment experience with one or more entities that provide, in the ordinary course of their respective businesses, advisory, management or placement services to issuers of securitization or structured finance instruments, agreements or securities. For purposes of this clause (c), “*Davey Tree Group*” shall mean (i) the Servicer, the Performance Guarantor and each Originator, (ii) each person that directly or indirectly, owns or controls, whether beneficially, or as a trustee, guardian or other fiduciary, five percent (5%) or more of the membership interests in Davey Tree, (iii) each person that controls, is controlled by or is under common control with Davey Tree, and (iv) each of such person’s officers, directors, managers, joint venturers and partners. For the purposes of this definition, “control” of a person means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a person or entity, whether through the ownership of voting securities, by contract or otherwise. A person shall be deemed to be an “associate” of (A) a corporation or organization of which such person is an officer, director, partner or manager or is, directly or indirectly, the beneficial owner of ten percent (10%) or more of any class of equity securities, (B) any trust or other estate in which such person serves as trustee or in a similar capacity and (C) any relative or spouse of a person described in clause (A) or (B) of this sentence, or any relative of such spouse.

The Borrower shall (A) give written notice to the Administrative Agent of the election or appointment, or proposed election or appointment, of a new Independent Director of the Borrower, which notice shall be given not later than ten (10) Business Days prior to the date such appointment or election would be effective (except when such election or appointment is necessary to fill a vacancy caused by the death, disability, or incapacity of the existing Independent Director, or the failure of such Independent Director to satisfy the criteria for an Independent Director set forth in this clause (c), in which case the Borrower shall provide written notice of such election or appointment within one (1) Business Day) and (B) with any such written notice, certify to the Administrative Agent that the Independent Director satisfies the criteria for an Independent Director set forth in this clause (c).

The Borrower’s Operating Agreement shall provide that: (A) the Borrower’s board of directors shall not approve, or take any other action to cause the filing of, a voluntary bankruptcy petition with respect to the Borrower unless the Independent Director shall approve the taking of such action in writing before the taking of such action and (B) such provision and each other

provision requiring an Independent Director cannot be amended without the prior written consent of the Independent Director.

The Independent Director shall not at any time serve as a trustee in bankruptcy for the Borrower, the Performance Guarantor, any Originator, the Servicer or any of their respective Affiliates.

(d) *Organizational Documents.* The Borrower shall maintain its organizational documents in conformity with this Agreement, such that it does not amend, restate, supplement or otherwise modify its ability to comply with the terms and provisions of any of the Transaction Documents, including, without limitation, Section 8.01(p).

(e) *Conduct of Business.* The Borrower shall conduct its affairs strictly in accordance with its organizational documents and observe all necessary, appropriate and customary company formalities, including, but not limited to, holding all regular and special members' and board of directors' meetings appropriate to authorize all corporate action, keeping separate and accurate minutes of its meetings, passing all resolutions or consents necessary to authorize actions taken or to be taken, and maintaining accurate and separate books, records and accounts, including, but not limited to, payroll and intercompany transaction accounts.

(f) *Compensation.* Any employee, consultant or agent of the Borrower will be compensated from the Borrower's funds for services provided to the Borrower, and to the extent that Borrower shares the same officers or other employees as the Servicer (or any other Affiliate thereof), the salaries and expenses relating to providing benefits to such officers and other employees shall be fairly allocated among such entities, and each such entity shall bear its fair share of the salary and benefit costs associated with such common officers and employees; *provided*, that the foregoing shall not require Davey Tree to make any additional capital contributions to the Borrower. The Borrower will not engage any agents other than its attorneys, auditors and other professionals, and a servicer and any other agent contemplated by the Transaction Documents for the Receivables Pool, which servicer will be fully compensated for its services by payment of the Servicing Fee.

(g) *Servicing and Costs.* The Borrower will contract with the Servicer to perform for the Borrower all operations required on a daily basis to service the Receivables Pool. The Borrower will not incur any indirect or overhead expenses for items shared with the Servicer (or any other Affiliate thereof) that are not reflected in the Servicing Fee. To the extent, if any, that the Borrower (or any Affiliate thereof) shares items of expenses not reflected in the Servicing Fee, such as legal, auditing and other professional services, such expenses will be allocated to the extent practical on the basis of actual use or the value of services rendered, and otherwise on a basis reasonably related to the actual use or the value of services rendered.

(h) *Operating Expenses.* The Borrower's operating expenses will not be paid by the Servicer, the Performance Guarantor, any Originator or any Affiliate thereof and Davey Tree shall have no obligation to make additional capital contributions to the Borrower for such operating expenses.

(i) *reserved.*

(j) *Books and Records.* The Borrower's books and records will be maintained separately from those of the Servicer, the Performance Guarantor, the Originators and any of their Affiliates and in a manner such that it will not be difficult or costly to segregate, ascertain or otherwise identify the assets and liabilities of the Borrower.

(k) *Disclosure of Transactions.* All financial statements of the Servicer, the Performance Guarantor, the Originators or any Affiliate thereof that are consolidated to include the Borrower will disclose that (i) the Borrower's sole business consists of the purchase or acceptance through capital contributions of the Receivables and Related Security from the Originators and the subsequent retransfer of or granting of a security interest in such Receivables and Related Security to the Administrative Agent pursuant to this Agreement, (ii) the Borrower is a separate legal entity with its own separate creditors who will be entitled, upon its liquidation, to be satisfied out of the Borrower's assets prior to any assets or value in the Borrower becoming available to the Borrower's equity holders and (iii) the assets of the Borrower are not available to pay creditors of the Servicer, the Performance Guarantor, the Originators or any Affiliate thereof.

(l) *Segregation of Assets.* The Borrower's assets will be maintained in a manner that facilitates their identification and segregation from those of the Servicer, the Performance Guarantor, the Originators or any Affiliates thereof.

(m) *Corporate Formalities.* The Borrower will strictly observe corporate formalities in its dealings with the Servicer, the Performance Guarantor, the Originators or any Affiliates thereof, and funds or other assets of the Borrower will not be commingled with those of the Servicer, the Performance Guarantor, the Originators or any Affiliates thereof except as permitted by this Agreement in connection with servicing the Pool Receivables. The Borrower shall not maintain joint bank accounts or other depository accounts to which the Servicer, the Performance Guarantor, the Originators or any Affiliate thereof (other than the Servicer solely in its capacity as such) has independent access. The Borrower is not named, and has not entered into any agreement to be named, directly or indirectly, as a direct or contingent beneficiary or loss payee on any insurance policy with respect to any loss relating to the property of the Servicer, the Performance Guarantor, the Originators or any Subsidiaries or other Affiliates thereof. The Borrower will pay to the appropriate Affiliate the marginal increase or, in the absence of such increase, the market amount of its portion of the premium payable with respect to any insurance policy that covers the Borrower and such Affiliate.

(n) *Arm's -Length Relationships.* The Borrower will maintain arm's-length relationships with the Servicer, the Performance Guarantor, the Originators and any Affiliates thereof. Any Person that renders or otherwise furnishes services to the Borrower will be compensated by the Borrower at market rates for such services it renders or otherwise furnishes to the Borrower. Neither the Borrower on the one hand, nor the Servicer, the Performance Guarantor, any Originator or any Affiliate thereof, on the other hand, will be or will hold itself out to be responsible for the debts of the other or the decisions or actions respecting the daily business and affairs of the other. The Borrower, the Servicer, the Performance Guarantor, the Originators and their respective Affiliates will immediately correct any known misrepresentation with respect to the foregoing, and they will not operate or purport to operate as an integrated single economic unit with respect to each other or in their dealing with any other entity.

(o) *Allocation of Overhead.* To the extent that Borrower, on the one hand, and the Servicer, the Performance Guarantor, any Originator or any Affiliate thereof, on the other hand, have offices in the same location, there shall be a fair and appropriate allocation of overhead costs between them, and the Borrower shall bear its fair share of such expenses, which may be paid through the Servicing Fee or otherwise.

ARTICLE IX

ADMINISTRATION AND COLLECTION OF RECEIVABLES

Section 9.01. Appointment of the Servicer. (a) The servicing, administering and collection of the Pool Receivables shall be conducted by the Person so designated from time to time as the Servicer in accordance with this Section 9.01. Until the Administrative Agent gives notice to Davey Tree (in accordance with this Section 9.01) of the designation of a new Servicer, Davey Tree is hereby designated as, and hereby agrees to perform the duties and obligations of, the Servicer pursuant to the terms hereof. Upon the occurrence of an Event of Default, the Administrative Agent may (with the consent of the LC Bank) and shall (at the direction of the LC Bank) designate as Servicer any Person (including itself) to succeed Davey Tree or any successor Servicer, on the condition in each case that any such Person so designated shall agree to perform the duties and obligations of the Servicer pursuant to the terms hereof.

(b) Upon the designation of a successor Servicer as set forth in clause (a) above, Davey Tree agrees that it will terminate its activities as Servicer hereunder in a manner that the Administrative Agent reasonably determines will facilitate the transition of the performance of such activities to the new Servicer, and Davey Tree shall cooperate with and assist such new Servicer. Such cooperation shall include access to and transfer of records (including all Contracts) related to Pool Receivables and use by the new Servicer of all licenses (or the obtaining of new licenses), hardware or software necessary or reasonably desirable to collect the Pool Receivables and the Related Security.

(c) Davey Tree acknowledges that, in making its decision to execute and deliver this Agreement, the Administrative Agent and each Credit Party have relied on Davey Tree's agreement

to act as Servicer hereunder. Accordingly, Davey Tree agrees that it will not voluntarily resign as Servicer without the prior written consent of the Administrative Agent and the LC Bank.

(d) The Servicer may delegate its duties and obligations hereunder to any subservicer (each a “*Sub -Servicer*”); *provided*, that, in each such delegation: (i) such Sub-Servicer shall agree in writing to perform the delegated duties and obligations of the Servicer pursuant to the terms hereof, (ii) the Servicer shall remain liable for the performance of the duties and obligations so delegated, (iii) the Borrower, the Administrative Agent, and each Credit Party shall have the right to look solely to the Servicer for performance, (iv) the terms of any agreement with any Sub-Servicer shall provide that the Administrative Agent may terminate such agreement upon the termination of the Servicer hereunder by giving notice of its desire to terminate such agreement to the Servicer (and the Servicer shall provide appropriate notice to each such Sub-Servicer), and (v) if such Sub-Servicer is not an Affiliate of the Servicer, the Administrative Agent and the LC Bank shall have consented in writing in advance to such delegation.

Section 9.02. Duties of the Servicer. (a) The Servicer shall take or cause to be taken all such action as may be necessary or reasonably advisable to service, administer and collect each Pool Receivable from time to time, all in accordance with this Agreement and all Applicable Laws, with reasonable care and diligence, and in accordance with the Credit and Collection Policy and consistent with the past practices of the Originators. The Servicer shall set aside, for the accounts of each Credit Party, the amount of Collections to which each such Credit Party is entitled in accordance with Article IV hereof. The Servicer may, in accordance with the Credit and Collection Policy and consistent with past practices of the Originators, take such action, including modifications, waivers or restructurings of Pool Receivables and related Contracts, as the Servicer may reasonably determine to be appropriate to maximize Collections thereof or reflect adjustments expressly permitted under the Credit and Collection Policy or as expressly required under Applicable Laws or the applicable Contract; *provided*, that for purposes of this Agreement: (i) such action shall not, and shall not be deemed to, change the number of days such Pool Receivable has remained unpaid from the date of the original invoice and/or due date related to such Pool Receivable, (ii) such action shall not alter the status of such Pool Receivable as a Delinquent Receivable or a Defaulted Receivable or limit the rights of any Secured Party under this Agreement or any other Transaction Document and (iii) if an Event of Default has occurred and is continuing, the Servicer may take such action only upon the prior written consent of the Administrative Agent. The Borrower shall deliver to the Servicer and the Servicer shall hold for the benefit of the Administrative Agent (individually and for the benefit of each Credit Party), in accordance with their respective interests, all records and documents (including computer tapes or disks) with respect to each Pool Receivable. Notwithstanding anything to the contrary contained herein, if an Event of Default has occurred and is continuing, the Administrative Agent may direct the Servicer to commence or settle any legal action to enforce collection of any Pool Receivable that is a Defaulted Receivable or to foreclose upon or repossess any Related Security with respect to any such Defaulted Receivable.

(b) The Servicer shall, as soon as reasonably practicable following actual receipt of collected funds, turn over to the Borrower the collections of any indebtedness that is not a Pool

Receivable, less, if Davey Tree or an Affiliate thereof is not the Servicer, all reasonable and appropriate out-of-pocket costs and expenses of such Servicer of servicing, collecting and administering such collections. The Servicer, if other than Davey Tree or an Affiliate thereof, shall, as soon as reasonably practicable upon written demand, deliver to the Borrower all records in its possession that evidence or relate to any indebtedness that is not a Pool Receivable, and copies of records in its possession that evidence or relate to any indebtedness that is a Pool Receivable.

(c) The Servicer's obligations hereunder shall terminate on the Final Payout Date. Promptly following the Final Payout date, the Servicer shall deliver to the Borrower all books, records and related materials that the Borrower previously provided to the Servicer, or that have been obtained by the Servicer, in connection with this Agreement.

Section 9.03. Collection Account Arrangements. Prior to the Closing Date, the Borrower shall have entered into Account Control Agreements with all of the Collection Account Banks and delivered executed counterparts of each Account Control Agreement to the Administrative Agent. Upon the occurrence and during the continuance of an Event of Default or the date that is five (5) Business Days prior to the date on which any Account Control Agreement will be terminated in accordance with a notice delivered to the Administrative Agent by any Collection Account Bank per the terms of such Account Control Agreement, the Administrative Agent may (with the consent of the LC Bank) and shall (upon the direction of the LC Bank) at any time thereafter give notice to each Collection Account Bank that the Administrative Agent is exercising its rights under the Account Control Agreements to do any or all of the following: (a) to have the exclusive ownership and control of the Collection Accounts transferred to the Administrative Agent (for the benefit of the Secured Parties) and to exercise exclusive dominion and control over the funds deposited therein, (b) to have the proceeds that are sent to the respective Collection Accounts redirected pursuant to the Administrative Agent's instructions rather than deposited in the applicable Collection Account, and (c) to take any or all other actions permitted under the applicable Account Control Agreement. The Borrower hereby agrees that if the Administrative Agent at any time takes any action set forth in the preceding sentence, the Administrative Agent shall have exclusive control (for the benefit of the Secured Parties) of the proceeds (including Collections) of all Pool Receivables and the Borrower hereby further agrees to take any other action that the Administrative Agent may reasonably request to transfer such control. Any proceeds of Pool Receivables received by the Borrower or the Servicer thereafter shall be sent immediately to, or as otherwise instructed by, the Administrative Agent.

Section 9.04. Enforcement Rights. (a) At any time following the occurrence and during the continuation of an Event of Default:

(i) the Administrative Agent (at the Borrower's expense) may direct the Obligor that payment of all amounts payable under any Pool Receivable is to be made directly to the Administrative Agent or its designee;

(ii) the Administrative Agent may instruct the Borrower or the Servicer to give notice of the Secured Parties' interest in Pool Receivables to each Obligor, which notice shall direct that payments be made directly to the Administrative Agent or its designee (on behalf of the Secured Parties), and the Borrower or the Servicer, as the case may be, shall

give such notice at the expense of the Borrower or the Servicer, as the case may be; *provided*, that if the Borrower or the Servicer, as the case may be, fails to so notify each Obligor within two (2) Business Days following instruction by the Administrative Agent, the Administrative Agent (at the Borrower's or the Servicer's, as the case may be, expense) may so notify the Obligors;

(iii) the Administrative Agent may request the Servicer to, and upon such request the Servicer shall: (A) assemble all of the records necessary or desirable to collect the Pool Receivables and the Related Security, and transfer or license to a successor Servicer the use of all software necessary or desirable to collect the Pool Receivables and the Related Security, and make the same available to the Administrative Agent or its designee (for the benefit of the Secured Parties) at a place selected by the Administrative Agent and (B) segregate all cash, checks and other instruments received by it from time to time constituting Collections in a manner reasonably acceptable to the Administrative Agent and, promptly upon receipt, remit all such cash, checks and instruments, duly endorsed or with duly executed instruments of transfer, to the Administrative Agent or its designee;

(iv) assume exclusive control of each Collection Account and notify the Collection Account Banks that the Borrower and the Servicer will no longer have any access to the Collection Accounts;

(v) the Administrative Agent may (or, at the direction of the LC Bank shall) replace the Person then acting as Servicer;

(vi) the Administrative Agent may collect any amounts due from an Originator under the Receivables Purchase Agreement or the Performance Guarantor under the Performance Guaranty; and

(vii) the Administrative Agent may cause Settlement Dates to occur as frequently as daily and apply all Collections to reduce the Borrower Obligations in accordance with the priorities set forth in Section 4.01.

(b) The Borrower hereby authorizes the Administrative Agent (on behalf of the Secured Parties), and irrevocably appoints the Administrative Agent as its attorney-in-fact with full power of substitution and with full authority in the place and stead of the Borrower, which appointment is coupled with an interest, to take any and all steps in the name of the Borrower and on behalf of the Borrower necessary or desirable, in the reasonable determination of the Administrative Agent, after the occurrence and during the continuation of an Event of Default, to collect any and all amounts or portions thereof due under any and all Collateral, including endorsing the name of the Borrower on checks and other instruments representing Collections and enforcing such Collateral. Notwithstanding anything to the contrary contained in this subsection, none of the powers conferred upon such attorney-in-fact pursuant to the preceding sentence shall subject such attorney-in-fact

to any liability if any action taken by it shall prove to be inadequate or invalid, nor shall they confer any obligations upon such attorney-in-fact in any manner whatsoever.

(c) The Servicer hereby authorizes the Administrative Agent (on behalf of the Secured Parties), and irrevocably appoints the Administrative Agent as its attorney-in-fact with full power of substitution and with full authority in the place and stead of the Servicer, which appointment is coupled with an interest, to take any and all steps in the name of the Servicer and on behalf of the Servicer necessary or desirable, in the reasonable determination of the Administrative Agent, after the occurrence and during the continuation of an Event of Default, to collect any and all amounts or portions thereof due under any and all Collateral, including endorsing the name of the Servicer on checks and other instruments representing Collections and enforcing such Collateral. Notwithstanding anything to the contrary contained in this subsection, none of the powers conferred upon such attorney-in-fact pursuant to the preceding sentence shall subject such attorney-in-fact to any liability if any action taken by it shall prove to be inadequate or invalid, nor shall they confer any obligations upon such attorney-in-fact in any manner whatsoever.

Section 9.05. Responsibilities of the Borrower. (a) Anything herein to the contrary notwithstanding, the Borrower shall: (i) perform all of its obligations, if any, under the Contracts related to the Pool Receivables to the same extent as if interests in such Pool Receivables had not been transferred hereunder, and the exercise by the Administrative Agent, or any other Credit Party of their respective rights hereunder shall not relieve the Borrower from such obligations and (ii) pay when due any taxes, including any sales taxes payable in connection with the Pool Receivables and their creation and satisfaction. None of the Credit Parties shall have any obligation or liability with respect to any Collateral, nor shall any of them be obligated to perform any of the obligations of the Borrower, the Servicer or any Originator thereunder.

(b) Davey Tree hereby irrevocably agrees that if at any time it shall cease to be the Servicer hereunder, it shall act (if the then-current Servicer so requests) as the data-processing agent of the Servicer and, in such capacity, Davey Tree shall conduct the data-processing functions of the administration of the Receivables and the Collections thereon in substantially the same way that Davey Tree conducted such data-processing functions while it acted as the Servicer. In connection with any such processing functions, the Borrower shall pay to Davey Tree its reasonable out-of-pocket costs and expenses from the Borrower's own funds (subject to the priority of payments set forth in Section 4.01).

Section 9.06. Servicing Fee. (a) Subject to clause (b) below, the Borrower shall pay the Servicer a fee (the "Servicing Fee") equal to 1.00% per annum (the "*Servicing Fee Rate*") of the daily average aggregate Outstanding Balance of the Pool Receivables. Accrued Servicing Fees shall be payable from Collections to the extent of available funds in accordance with Section 4.01.

(b) If the Servicer ceases to be Davey Tree or an Affiliate thereof, the Servicing Fee shall be the greater of: (i) the amount calculated pursuant to clause (a) above and (ii) an alternative amount specified by the successor Servicer not to exceed 110% of the aggregate reasonable costs and

expenses incurred by such successor Servicer in connection with the performance of its obligations as Servicer hereunder.

ARTICLE X

EVENTS OF DEFAULT

Section 10.01. Events of Default. If any of the following events (each, an “Event of Default”) shall occur:

(a) (i) the Borrower, any Originator, the Performance Guarantor or the Servicer shall fail to perform or observe any term, covenant or agreement contained in Sections 8.01 (d)(i), (i), (l) or (s) or 8.02(b)(i) of this Agreement to be performed or observed by the Borrower, such Originator, the Performance Guarantor or the Servicer, as applicable, (ii) the Borrower, any Originator, the Performance Guarantor or the Servicer shall fail to make when due any payment or deposit to be made by it under this Agreement or any other Transaction Document to which it is a party and such failure shall continue unremedied for two (2) Business Days, (iii) Davey Tree shall resign as Servicer, and no successor Servicer reasonably satisfactory to the Administrative Agent shall have been appointed, or (iv) the Borrower, any Originator, the Performance Guarantor or the Servicer shall fail to perform or observe any term, covenant or agreement under this Agreement or any other Transaction Document to be performed or observed by the Borrower, such Originator or the Servicer, as applicable (other than any such failure which would constitute an Event of Default under another provision of this Section 10.01), and such failure, solely to the extent capable of cure, shall continue for five (5) Business Days; or

(b) any representation or warranty made or deemed made by the Borrower, any Originator, the Performance Guarantor or the Servicer (or any of their respective officers) under or in connection with this Agreement or any other Transaction Document or any information or report delivered by the Borrower, any Originator, the Performance Guarantor or the Servicer pursuant to this Agreement or any other Transaction Document, shall prove to have been incorrect or untrue in any material respect when made or deemed made or delivered;

(c) the Borrower or the Servicer shall fail to deliver an Information Package pursuant to this Agreement, and such failure shall remain unremedied for two (2) Business Days;

(d) (i) the Receivables Purchase Agreement ceases to create a valid and enforceable first priority perfected ownership interest in the Receivables, the Related Security or Collections in favor of the Borrower or (ii) this Agreement or any security interest granted pursuant to this Agreement or any other Transaction Document shall for any reason (other than through an affirmative action of the Administrative Agent) cease to create, or for any reason cease to be, a valid and enforceable first priority perfected security interest

in favor of the Administrative Agent with respect to the Collateral, free and clear of any Adverse Claim;

(e) the Borrower, any Originator, the Performance Guarantor or the Servicer shall generally not pay its debts as such debts become due, or shall admit in writing its inability to pay its debts generally, or shall make a general assignment for the benefit of creditors; or any Insolvency Proceeding shall be instituted by or against the Borrower, any Originator, the Performance Guarantor or the Servicer and, in the case of any such proceeding instituted against such Person (but not instituted by such Person), either such proceeding shall remain undismissed or unstayed for a period of thirty (30) consecutive days, or any of the actions sought in such proceeding (including the entry of an order for relief against, or the appointment of a receiver, trustee, custodian or other similar official for, it or for any substantial part of its property) shall occur; or the Borrower, any Originator, the Performance Guarantor or the Servicer shall take any corporate or organizational action to authorize any of the actions set forth above in this paragraph;

(f) (i) the average for three (3) consecutive Fiscal Months of: (A) the Default Ratio shall exceed 5.00%, (B) the Delinquency Ratio shall exceed 12.50% or (C) the Dilution Ratio shall exceed 5.00% or (ii) the Days' Sales Outstanding shall exceed 60 days;

(g) a Change in Control shall occur;

(h) a Borrowing Base Deficit shall occur, and shall not have been cured within two (2) consecutive Business Days;

(i) (i) the Borrower shall fail to pay any principal of or premium or interest on any of its Debt (other than the Borrower Obligations and Debt under the Subordinated Notes) when the same becomes due and payable (whether by scheduled maturity, required prepayment, acceleration, demand or otherwise), and such failure shall continue after the applicable grace period, if any, specified in the agreement, mortgage, indenture or instrument relating to such Debt (whether or not such failure shall have been waived under the related agreement); (ii) any Originator, the Performance Guarantor or the Servicer, or any of their respective Subsidiaries, individually or in the aggregate, shall fail to pay any principal of or premium or interest on any of its Debt that is outstanding in a principal amount in excess of \$5,000,000 in the aggregate when the same becomes due and payable (whether by scheduled maturity, required prepayment, acceleration, demand or otherwise), and such failure shall continue after the applicable grace period, if any, specified in the agreement, mortgage, indenture or instrument relating to such Debt (whether or not such failure shall have been waived under the related agreement); or (iii) any other event shall occur or condition shall exist under any agreement, mortgage, indenture or instrument relating to any such Debt (as referred to in clause (i) or (ii) of this paragraph) and shall continue after the applicable grace period, if any, specified in such agreement, mortgage, indenture or instrument (whether or not such failure shall have been waived under the related agreement), if the effect of such event or condition is to give the applicable debtholders the right (whether

acted upon or not) to accelerate the maturity of such Debt (as referred to in clause (i) or (ii) of this paragraph) or to terminate the commitment of any lender thereunder;

(j) the Performance Guarantor shall fail to perform any of its obligations under the Performance Guaranty and such failure continues beyond any applicable grace period;

(k) the Borrower shall fail (x) at any time (other than for ten (10) Business Days following notice of the death or resignation of any Independent Director) to have an Independent Director who satisfies each requirement and qualification specified in Section 8.03(c) of this Agreement for Independent Directors, on the Borrower's board of managers or (y) to timely notify the Administrative Agent of any replacement or appointment of any director that is to serve as an Independent Director on the Borrower's board of managers as required pursuant to Section 8.03(c) of this Agreement;

(l) there shall have occurred any event which materially adversely impairs, in the reasonable discretion of Administrative Agent, the collectability of the Pool Receivables generally or any material portion thereof;

(m) any Letter of Credit is drawn upon and is not fully reimbursed by the Borrower within two (2) consecutive Business Days;

(n) either (i) the Internal Revenue Service shall file notice of a lien pursuant to Section 6323 of the Code with regard to any assets of the Borrower, any Originator or the Servicer or (ii) the PBGC shall, or shall indicate its intention to, file notice of a lien pursuant to Section 4068 of ERISA with regard to any material portion of the assets of the Borrower, any Originator, the Performance Guarantor or the Servicer;

(o) (i) the occurrence of a Reportable Event; (ii) the adoption of an amendment to a Pension Plan that would require the provision of security pursuant to Section 401(a) (29) of the Code or Section 307 of ERISA; (iii) the existence with respect to any Multiemployer Plan of an "accumulated funding deficiency" (as defined in Section 412 of the Code or Section 302 of ERISA), whether or not waived; (iv) the failure to satisfy the minimum funding standard under Section 412 of the Code with respect to any Pension Plan (v) the incurrence of any liability under Title IV of ERISA with respect to the termination of any Pension Plan or the withdrawal or partial withdrawal of any of the Borrower, any Originator, the Performance Guarantor, the Servicer or any of their respective ERISA Affiliates from any Multiemployer Plan; (vi) the receipt by any of the Borrower, any Originator, the Performance Guarantor, the Servicer or any of their respective ERISA Affiliates from the PBGC or any plan administrator of any notice relating to the intention to terminate any Pension Plan or Multiemployer Plan or to appoint a trustee to administer any Pension Plan or Multiemployer Plan; (vii) the receipt by the Borrower, any Originator, the Performance Guarantor, the Servicer or any of their respective ERISA Affiliates of any notice concerning the imposition of Withdrawal Liability or a determination that a Multiemployer Plan is, or is expected to be, insolvent or in reorganization, within the meaning of Title IV of ERISA; (viii) the occurrence of a prohibited transaction with respect to any

of the Borrower, any Originator, the Performance Guarantor, the Servicer or any of their respective ERISA Affiliates (pursuant to Section 4975 of the Code); (ix) the occurrence or existence of any other similar event or condition with respect to a Pension Plan or a Multiemployer Plan, with respect to each of clause (i) through (ix), either individually or in the aggregate, could reasonably be expected to result in a Material Adverse Effect;

(p) a Material Adverse Effect shall occur with respect to the Borrower, any Originator, the Performance Guarantor or the Servicer;

(q) a Receivables Purchase Termination Event shall occur under the Receivables Purchase Agreement;

(r) the Borrower shall be required to register as an “investment company” within the meaning of the Investment Company Act;

(s) any material provision of this Agreement or any other Transaction Document shall cease to be in full force and effect or any of the Borrower, any Originator, the Performance Guarantor or the Servicer (or any of their respective Affiliates) shall so state in writing; or

(t) one or more judgments or decrees shall be entered against the Borrower, any Originator, the Performance Guarantor or the Servicer, or any Affiliate of any of the foregoing involving in the aggregate a liability (not paid or to the extent not covered by a reputable and solvent insurance company) and such judgments and decrees either shall be final and non-appealable or shall not be vacated, discharged or stayed or bonded pending appeal for any period of sixty (60) consecutive days, and the aggregate amount of all such judgments equals or exceeds \$1,000,000 (or solely with respect to the Borrower, \$13,500);

then, and in any such event, the Administrative Agent may (or, at the direction of the LC Bank shall) by notice to the Borrower (x) declare the Termination Date to have occurred (in which case the Termination Date shall be deemed to have occurred) and (y) declare the Outstanding Reimbursement Obligations and all other Borrower Obligations to be immediately due and payable (in which case the Outstanding Reimbursement Obligations and all other Borrower Obligations shall be immediately due and payable); *provided* that, automatically upon the occurrence of any event (without any requirement for the giving of notice) described in subsection (e) of this Section 10.01 with respect to the Borrower, the Termination Date shall occur and the Outstanding Reimbursement Obligations and all other Borrower Obligations shall be immediately due and payable. Upon any such declaration or designation or upon such automatic termination, the Administrative Agent and the other Secured Parties shall have, in addition to the rights and remedies which they may have under this Agreement and the other Transaction Documents, all other rights and remedies provided after default under the UCC and under other Applicable Law, which rights and remedies shall be cumulative. Any proceeds from liquidation of the Collateral shall be applied in the order of priority set forth in Section 4.01.

ARTICLE XI

THE ADMINISTRATIVE AGENT

Section 11.01. Authorization and Action. Each Credit Party hereby appoints and authorizes the Administrative Agent to take such action as agent on its behalf and to exercise such powers under this Agreement as are delegated to the Administrative Agent by the terms hereof, together with such powers as are reasonably incidental thereto. The Administrative Agent shall not have any duties other than those expressly set forth in the Transaction Documents, and no implied obligations or liabilities shall be read into any Transaction Document, or otherwise exist, against the Administrative Agent. The Administrative Agent does not assume, nor shall it be deemed to have assumed, any obligation to, or relationship of trust or agency with, the Borrower or any Affiliate thereof or any Credit Party except for any obligations expressly set forth herein. Notwithstanding any provision of this Agreement or any other Transaction Document, in no event shall the Administrative Agent ever be required to take any action which exposes the Administrative Agent to personal liability or which is contrary to any provision of any Transaction Document or Applicable Law.

Section 11.02. Administrative Agent's Reliance, Etc. Neither the Administrative Agent nor any of its directors, officers, agents or employees shall be liable for any action taken or omitted to be taken by it or them as Administrative Agent under or in connection with this Agreement (including, without limitation, the Administrative Agent's servicing, administering or collecting Pool Receivables in the event it replaces the Servicer in such capacity pursuant to Section 9.01), in the absence of its or their own gross negligence or willful misconduct. Without limiting the generality of the foregoing, the Administrative Agent: (a) may consult with legal counsel (including counsel for any Credit Party or the Servicer), independent certified public accountants and other experts selected by it and shall not be liable for any action taken or omitted to be taken in good faith by it in accordance with the advice of such counsel, accountants or experts; (b) makes no warranty or representation to any Credit Party (whether written or oral) and shall not be responsible to any Credit Party for any statements, warranties or representations (whether written or oral) made by any other party in or in connection with this Agreement; (c) shall not have any duty to ascertain or to inquire as to the performance or observance of any of the terms, covenants or conditions of this Agreement on the part of any Credit Party or to inspect the property (including the books and records) of any Credit Party; (d) shall not be responsible to any Credit Party for the due execution, legality, validity, enforceability, genuineness, sufficiency or value of this Agreement or any other instrument or document furnished pursuant hereto; and (e) shall be entitled to rely, and shall be fully protected in so relying, upon any notice (including notice by telephone), consent, certificate or other instrument or writing (which may be by facsimile) believed by it to be genuine and signed or sent by the proper party or parties.

Section 11.03. Administrative Agent and Affiliates. With respect to any Credit Extension or interests therein owned by any Credit Party that is also the Administrative Agent, such Credit Party shall have the same rights and powers under this Agreement as any other Credit Party and may exercise the same as though it were not the Administrative Agent. The Administrative Agent and any of its Affiliates may generally engage in any kind of business with the Borrower or any Affiliate thereof and any Person who may do business with or own securities of the Borrower or any Affiliate

thereof, all as if the Administrative Agent were not the Administrative Agent hereunder and without any duty to account therefor to any other Secured Party.

Section 11.04. Indemnification of Administrative Agent. The LC Bank agrees to indemnify the Administrative Agent (to the extent not reimbursed by the Borrower or any Affiliate thereof), from and against any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements of any kind or nature whatsoever which may be imposed on, incurred by, or asserted against the Administrative Agent in any way relating to or arising out of this Agreement or any other Transaction Document or any action taken or omitted by the Administrative Agent under this Agreement or any other Transaction Document; *provided* that the LC Bank shall not be liable for any portion of such liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements resulting from the Administrative Agent's gross negligence or willful misconduct.

Section 11.05. Delegation of Duties. The Administrative Agent may execute any of its duties through agents or attorneys-in-fact and shall be entitled to advice of counsel concerning all matters pertaining to such duties. The Administrative Agent shall not be responsible for the negligence or misconduct of any agents or attorneys-in-fact selected by it with reasonable care.

Section 11.06. Action or Inaction by Administrative Agent. The Administrative Agent shall in all cases be fully justified in failing or refusing to take action under any Transaction Document unless it shall first receive such advice or concurrence of the LC Bank and assurance of its indemnification by the LC Bank, as it deems appropriate. The Administrative Agent shall in all cases be fully protected in acting, or in refraining from acting, under this Agreement or any other Transaction Document in accordance with a request or at the direction of the LC Bank, and such request or direction and any action taken or failure to act pursuant thereto shall be binding upon all Credit Parties. The Credit Parties and the Administrative Agent agree that unless any action to be taken by the Administrative Agent under a Transaction Document (i) specifically requires the advice or concurrence of the LC Bank or (ii) may be taken by the Administrative Agent alone or without any advice or concurrence of the LC Bank, then the Administrative Agent may take action based upon the advice or concurrence of the LC Bank.

Section 11.07. Notice of Events of Default; Action by Administrative Agent. The Administrative Agent shall not be deemed to have knowledge or notice of the occurrence of any Unmatured Event of Default or Event of Default unless the Administrative Agent has received notice from any Credit Party or the Borrower stating that an Unmatured Event of Default or Event of Default has occurred hereunder and describing such Unmatured Event of Default or Event of Default. If the Administrative Agent receives such a notice, it shall promptly give notice thereof to each Credit Party. The Administrative Agent may (but shall not be obligated to) take such action, or refrain from taking such action, concerning an Unmatured Event of Default or Event of Default or any other matter hereunder as the Administrative Agent deems advisable and in the best interests of the Secured Parties.

Section 11.08. Non-Reliance on Administrative Agent and Other Parties. Each Credit Party expressly acknowledges that neither the Administrative Agent nor any of its directors, officers,

agents or employees has made any representations or warranties to it and that no act by the Administrative Agent hereafter taken, including any review of the affairs of the Borrower or any Affiliate thereof, shall be deemed to constitute any representation or warranty by the Administrative Agent. Each Credit Party represents and warrants to the Administrative Agent that, independently and without reliance upon the Administrative Agent or any other Credit Party and based on such documents and information as it has deemed appropriate, it has made and will continue to make its own appraisal of and investigation into the business, operations, property, prospects, financial and other conditions and creditworthiness of the Borrower, each Originator, the Performance Guarantor or the Servicer and the Pool Receivables and its own decision to enter into this Agreement and to take, or omit, action under any Transaction Document. Except for items expressly required to be delivered under any Transaction Document by the Administrative Agent to any Credit Party, the Administrative Agent shall not have any duty or responsibility to provide any Credit Party with any information concerning the Borrower, any Originator, the Performance Guarantor or the Servicer that comes into the possession of the Administrative Agent or any of its directors, officers, agents, employees, attorneys-in-fact or Affiliates.

Section 11.09. Successor Administrative Agent. (a) The Administrative Agent may, upon at least thirty (30) days' notice to the Borrower, the Servicer and each Credit Party, resign as Administrative Agent. Except as provided below, such resignation shall not become effective until a successor Administrative Agent is appointed by the LC Bank as a successor Administrative Agent and has accepted such appointment. If no successor Administrative Agent shall have been so appointed by the LC Bank, within thirty (30) days after the departing Administrative Agent's giving of notice of resignation, the departing Administrative Agent may, on behalf of the Secured Parties, appoint a successor Administrative Agent as successor Administrative Agent. If no successor Administrative Agent shall have been so appointed by the LC Bank within sixty (60) days after the departing Administrative Agent's giving of notice of resignation, the departing Administrative Agent may, on behalf of the Secured Parties, petition a court of competent jurisdiction to appoint a successor Administrative Agent.

(b) Upon such acceptance of its appointment as Administrative Agent hereunder by a successor Administrative Agent, such successor Administrative Agent shall succeed to and become vested with all the rights and duties of the resigning Administrative Agent, and the resigning Administrative Agent shall be discharged from its duties and obligations under the Transaction Documents. After any resigning Administrative Agent's resignation hereunder, the provisions of this Article XI and Article XIII shall inure to its benefit as to any actions taken or omitted to be taken by it while it was the Administrative Agent.

Section 11.10. Structuring Agent. Each of the parties hereto hereby acknowledges and agrees that the Structuring Agent shall not have any right, power, obligation, liability, responsibility or duty under this Agreement. Each Credit Party acknowledges that it has not relied, and will not rely, on the Structuring Agent in deciding to enter into this Agreement and to take, or omit to take, any action under any Transaction Document.

ARTICLE XII

[RESERVED]

ARTICLE XIII

INDEMNIFICATION

Section 13.01. Indemnities by the Borrower. Without limiting any other rights that the Administrative Agent, the Credit Parties, the Affected Persons and their respective assigns, officers, directors, agents and employees (each, a “*Borrower Indemnified Party*”) may have hereunder or under Applicable Law, the Borrower hereby agrees to indemnify each Borrower Indemnified Party from and against any and all claims, losses and liabilities (including Attorney Costs) (all of the foregoing being collectively referred to as “*Borrower Indemnified Amounts*”) arising out of or resulting from this Agreement or any other Transaction Document or any Credit Extension or the security interest in respect of any Pool Receivable or any other Collateral; excluding, however, (x) Borrower Indemnified Amounts to the extent a final non-appealable judgment of a court of competent jurisdiction holds that such Borrower Indemnified Amounts resulted primarily from the gross negligence or willful misconduct by the Borrower Indemnified Party seeking indemnification, (y) Borrower Indemnified Amounts to the extent a final non-appealable judgment of a court of competent jurisdiction holds that such Borrower Indemnified Amounts result from a claim by the Borrower against a Borrower Indemnified Party for a material breach by such Borrower Indemnified Party of its obligations under any Transaction Document, and (z) Taxes that are covered by Section 5.03. Without limiting or being limited by the foregoing, the Borrower shall pay on written demand (which demand shall be accompanied by documentation of the Borrower Indemnified Amounts in reasonable detail) (it being understood that if any portion of such payment obligation is made from Collections, such payment will be made at the time and in the order of priority set forth in Section 4.01), to each Borrower Indemnified Party any and all amounts necessary to indemnify such Borrower Indemnified Party from and against any and all Borrower Indemnified Amounts relating to or resulting from any of the following (but excluding Borrower Indemnified Amounts and Taxes described in clauses (x), (y) and (z) above):

(i) any Pool Receivable which the Borrower or the Servicer includes as an Eligible Receivable as part of the Net Receivables Pool Balance but which is not an Eligible Receivable at such time;

(ii) any written representation, warranty or statement made or deemed made by the Borrower (or any of its respective officers) under or in connection with this Agreement, any of the other Transaction Documents, any Information Package or any other written information or report (other than projections, forward-looking statements and information of a general economic or industry nature) delivered by or on behalf of the Borrower pursuant hereto which shall have been untrue or incorrect when made or deemed made;

(iii) the failure by the Borrower to comply with any Applicable Law with respect to any Pool Receivable or the related Contract; or the failure of any Pool Receivable or the related Contract to conform to any such Applicable Law;

(iv) the failure to vest in the Administrative Agent a first priority perfected security interest in all or any portion of the Collateral, in each case free and clear of any Adverse Claim;

(v) the failure to have filed, or any delay in filing, financing statements, financing statement amendments, continuation statements or other similar instruments or documents under the UCC of any applicable jurisdiction or other Applicable Laws with respect to any Pool Receivable and the other Collateral and Collections in respect thereof, whether at the time of any Credit Extension or at any subsequent time;

(vi) any failure of the Borrower to perform any of its duties or obligations in accordance with the provisions hereof and of each other Transaction Document related to Pool Receivables or to timely and fully comply with the Credit and Collection Policy in regard to each Pool Receivable or to deliver timely an invoice with respect to any Receivable to the related Obligor;

(vii) any products liability, environmental or other claim arising out of or in connection with any Pool Receivable or other merchandise, goods or services which are the subject of or related to any Pool Receivable;

(viii) the commingling of Collections of Pool Receivables at any time with other funds;

(ix) any investigation, litigation or proceeding (actual or threatened) (other than in connection with disputes solely between Borrower Indemnified Parties and in each case not involving any action or inaction by Borrower or its Affiliates in violation of this Agreement or any other Transaction Document) related to this Agreement or any other Transaction Document or the use of proceeds of any Credit Extension or in respect of any Pool Receivable or other Collateral or any related Contract;

(x) any failure of the Borrower to comply with its covenants, obligations and agreements contained in this Agreement or any other Transaction Document;

(xi) any setoff with respect to any Pool Receivable;

(xii) any claim brought by any Person other than a Borrower Indemnified Party arising from any activity by the Borrower or any Affiliate of the Borrower in servicing, administering or collecting any Pool Receivable;

(xiii) the failure by the Borrower to pay when due any taxes, including, without limitation, sales, excise or personal property taxes;

(xiv) any failure of a Collection Account Bank to comply with the terms of the applicable Account Control Agreement, the termination by a Collection Account Bank of any Account Control Agreement or any amounts payable by the Administrative Agent to a Collection Account Bank under any Account Control Agreement;

(xv) any dispute, claim, offset or defense (other than discharge in bankruptcy of the Obligor) of the Obligor to the payment of any Pool Receivable (including, without limitation, a defense based on such Pool Receivable or the related Contract not being a legal, valid and binding obligation of such Obligor enforceable against it in accordance with its terms), or any other claim resulting from or relating to collection activities with respect to such Pool Receivable or the sale of goods or the rendering of services related to such Pool Receivable or the furnishing or failure to furnish any such goods or services or other similar claim or defense not arising from the financial inability of any Obligor to pay undisputed indebtedness;

(xvi) any action taken by the Administrative Agent as attorney-in-fact for the Borrower, any Originator or the Servicer pursuant to this Agreement or any other Transaction Document;

(xvii) the usage of any Letter of Credit; or

(xviii) any reduction in Reimbursement Obligations as a result of the distribution of Collections if all or a portion of such distributions shall thereafter be rescinded or otherwise must be returned for any reason.

(b) Notwithstanding anything to the contrary in this Agreement, solely for purposes of the Borrower's indemnification obligations in clauses (ii), (iii), (vi) and (x) of this Article XIII, any representation, warranty or covenant qualified by the occurrence or non-occurrence of a material adverse effect or similar concepts of materiality shall be deemed to be not so qualified.

(c) If for any reason the foregoing indemnification is unavailable to any Borrower Indemnified Party or insufficient to hold it harmless, then the Borrower shall contribute to such Borrower Indemnified Party the amount paid or payable by such Borrower Indemnified Party as a result of such loss, claim, damage or liability in such proportion as is appropriate to reflect the relative economic interests of the Borrower on the one hand and such Borrower Indemnified Party on the other hand in the matters contemplated by this Agreement as well as the relative fault of the Borrower and such Borrower Indemnified Party with respect to such loss, claim, damage or liability and any other relevant equitable considerations. The reimbursement, indemnity and contribution obligations of the Borrower under this Section 13.01 shall be in addition to any liability which the Borrower may otherwise have, shall extend upon the same terms and conditions to each Borrower Indemnified Party, and shall be binding upon and inure to the benefit of any successors, assigns, heirs and personal representatives of the Borrower and the Borrower Indemnified Parties.

(d) Any indemnification or contribution under this Section 13.01 shall survive the termination of this Agreement.

Section 13.02. Indemnification by the Servicer. (a) The Servicer hereby agrees to indemnify and hold harmless the Borrower, the Administrative Agent, the Credit Parties, the Affected Persons and their respective assigns, officers, directors, agents and employees (each, a “*Servicer Indemnified Party*”), from and against any loss, liability, expense, damage or injury suffered or sustained by reason of any acts, omissions or alleged acts or omissions arising out of activities of the Servicer pursuant to this Agreement or any other Transaction Document, including any judgment, award, settlement, Attorney Costs and other costs or expenses incurred in connection with the defense of any actual or threatened action, proceeding or claim (all of the foregoing being collectively referred to as, “*Servicer Indemnified Amounts*”), excluding (i) Servicer Indemnified Amounts to the extent a final, non-appealable judgment of a court of competent jurisdiction holds that such Servicer Indemnified Amounts resulted from the gross negligence or willful misconduct by the Servicer Indemnified Party seeking indemnification, (ii) Taxes that are covered by Section 5.03, (iii) Servicer Indemnified Amounts to the extent a final non-appealable judgment of a court of competent jurisdiction holds that such Servicer Indemnified Amounts result primarily from a claim brought by the Servicer against a Servicer Indemnified Party for a material breach by such Servicer Indemnified Party of its obligations under any Transaction Document, and (iv) Servicer Indemnified Amounts to the extent the same includes losses in respect of Pool Receivables that are uncollectible solely on account of the insolvency, bankruptcy or lack of creditworthiness of the related Obligor. Without limiting or being limited by the foregoing, the Servicer shall pay on demand, to each Servicer Indemnified Party any and all amounts necessary to indemnify such Servicer Indemnified Party from and against any and all Servicer Indemnified Amounts relating to or resulting from any of the following (but excluding Servicer Indemnified Amounts described in clauses (i), (ii), (iii) and (iv) above):

(i) any representation, warranty or statement made or deemed made by the Servicer (or any of its respective officers) under or in connection with this Agreement, any of the other Transaction Documents, any Information Package or any other information or report (other than projections, forward-looking statements and information of a general economic or industry nature) delivered by or on behalf of the Servicer pursuant hereto which shall have been untrue or incorrect when made or deemed made;

(ii) the failure by the Servicer to comply with any Applicable Law with respect to any Pool Receivable or the related Contract;

(iii) any failure of the Servicer to comply with its covenants, obligations and agreements contained in this Agreement or any other Transaction Document to which it is a party in its capacity as Servicer; or

(iv) the commingling of Collections of Pool Receivables at any time with other funds.

(b) If for any reason the foregoing indemnification is unavailable to any Servicer Indemnified Party or insufficient to hold it harmless, then the Servicer shall contribute to the amount paid or payable by such Servicer Indemnified Party as a result of such loss, claim, damage or liability in such proportion as is appropriate to reflect the relative economic interests of the Servicer on the

one hand and such Servicer Indemnified Party on the other hand in the matters contemplated by this Agreement as well as the relative fault of the Servicer and such Servicer Indemnified Party with respect to such loss, claim, damage or liability and any other relevant equitable considerations. The reimbursement, indemnity and contribution obligations of the Servicer under this Section shall be in addition to any liability which the Servicer may otherwise have, shall extend upon the same terms and conditions to Servicer Indemnified Party, and shall be binding upon and inure to the benefit of any successors, assigns, heirs and personal representatives of the Servicer and the Servicer Indemnified Parties.

(c) Any indemnification or contribution under this Section 13.02 shall survive the termination of this Agreement.

ARTICLE XIV

MISCELLANEOUS

Section 14.01. Amendments, Etc. (a) No failure on the part of any Credit Party to exercise, and no delay in exercising, any right hereunder shall operate as a waiver thereof; nor shall any single or partial exercise of any right hereunder preclude any other or further exercise thereof or the exercise of any other right. No amendment or waiver of any provision of this Agreement or consent to any departure by any of the Borrower, the Servicer or any Affiliate thereof shall be effective unless in a writing signed by the Administrative Agent, the LC Bank and the LC Bank (and, in the case of any amendment, also signed by the Borrower), and then such amendment, waiver or consent shall be effective only in the specific instance and for the specific purpose for which given; *provided, however*, that no amendment, waiver or consent shall, unless in writing and signed by the Servicer, affect the rights or duties of the Servicer under this Agreement.

Section 14.02. Notices, Etc. All notices and other communications hereunder shall, unless otherwise stated herein, be in writing (which shall include facsimile communication) and faxed or delivered, to each party hereto, at its address set forth under its name on Schedule III hereto or at such other address as shall be designated by such party in a written notice to the other parties hereto. Notices and communications by facsimile shall be effective when sent (and shall be followed by hard copy sent by regular mail), and notices and communications sent by other means shall be effective when received.

Section 14.03. Participations. (a) *Participations.* The LC Bank may sell participations to one or more Eligible Assignees (each, a “Participant”) in or to all or a portion of its rights and/or obligations under this Agreement (including, without limitation, all or a portion of its Commitment and the interests in the Reimbursement Obligations owned by it); *provided, however*, that:

(i) the LC Bank’s obligations under this Agreement (including, without limitation, its Commitment to the Borrower hereunder) shall remain unchanged, and

(ii) the LC Bank shall remain solely responsible to the other parties to this Agreement for the performance of such obligations.

The Administrative Agent, the LC Bank, the Borrower and the Servicer shall have the right to continue to deal solely and directly with the LC Bank in connection with the LC Bank's rights and obligations under this Agreement.

(b) *Participant Register.* The LC Bank shall, acting solely for this purpose as an agent of the Borrower, maintain a register on which it enters the name and address of each Participant and the principal amounts (and stated interest) of each Participant's interest in the Reimbursement Obligations or other obligations under this Agreement (the "*Participant Register*"); *provided that* the LC Bank shall not have any obligation to disclose all or any portion of the Participant Register (including the identity of any Participant or any information relating to a Participant's interest in any Commitments, Letters of Credit or its other obligations under any this Agreement) to any Person except to the extent that such disclosure is necessary to establish that such Commitment, Letter of Credit or other obligation is in registered form under Section 5f.103-1(c) of the United States Treasury Regulations. The entries in the Participant Register shall be conclusive absent manifest error, and the LC Bank shall treat each Person whose name is recorded in the Participant Register as the owner of such participation for all purposes of this Agreement notwithstanding any notice to the contrary. For the avoidance of doubt, the Administrative Agent (in its capacity as Administrative Agent) shall have no responsibility for maintaining a Participant Register.

(c) *Assignments by Administrative Agent.* This Agreement and the rights and obligations of the Administrative Agent herein shall be assignable by the Administrative Agent and its successors and assigns; *provided that* in the case of an assignment to a Person that is neither an Affiliate of the Administrative Agent nor the LC Bank, so long as no Event of Default or Unmatured Event of Default has occurred and is continuing, such assignment shall require the Borrower's consent (not to be unreasonably withheld, conditioned or delayed).

(d) *Assignments by the Borrower or the Servicer.* Neither the Borrower nor, except as provided in Section 9.01, the Servicer may assign any of its respective rights or obligations hereunder or any interest herein without the prior written consent of the Administrative Agent and the LC Bank (such consent to be provided or withheld in the sole discretion of such Person).

(e) *Pledge to a Federal Reserve Bank.* Notwithstanding anything to the contrary set forth herein, (i) any Credit Party or any of their respective Affiliates may at any time pledge or grant a security interest in all or any portion of its interest in, to and under this Agreement (including, without limitation, rights to payment of Reimbursement Obligations and Interest) and any other Transaction Document to secure its obligations to a Federal Reserve Bank, without notice to or the consent of the Borrower, the Servicer, any Affiliate thereof or any Credit Party; *provided, however,* that that no such pledge shall relieve such assignor of its obligations under this Agreement.

(f) *Transfer Restriction.* No right or obligation of the LC Bank may be transferred or assigned other than through the Participant Register. Any attempt to transfer an interest of the LC

Bank other than through the Participant Register will not be recognized by the Borrower or the Administrative Agent.

Section 14.04. Costs and Expenses. In addition to the rights of indemnification granted under Section 13.01 hereof, the Borrower agrees to pay on written demand (which demand shall be accompanied by documentation thereof in reasonable detail) all reasonable out-of-pocket costs and expenses in connection with the preparation, negotiation, execution, delivery and administration of this Agreement and the other Transaction Documents (together with all amendments, restatements, supplements, consents and waivers, if any, from time to time hereto and thereto), including, without limitation, (i) the reasonable Attorney Costs for the Administrative Agent and the other Credit Parties and any of their respective Affiliates with respect thereto and with respect to advising the Administrative Agent and the other Credit Parties and their respective Affiliates as to their rights and remedies under this Agreement and the other Transaction Documents and (ii) reasonable accountants', auditors' and consultants' fees and expenses for the Administrative Agent and the other Credit Parties and any of their respective Affiliates incurred in connection with the administration and maintenance of this Agreement or advising the Administrative Agent or any other Credit Party as to their rights and remedies under this Agreement or as to any actual or reasonably claimed breach of this Agreement or any other Transaction Document. In addition, the Borrower agrees to pay on written demand (which demand shall be accompanied by documentation thereof in reasonable detail) all reasonable out-of-pocket costs and expenses (including reasonable Attorney Costs), of the Administrative Agent and the other Credit Parties and their respective Affiliates, incurred in connection with the enforcement of any of their respective rights or remedies under the provisions of this Agreement and the other Transaction Documents.

Section 14.05. No Proceedings. The Servicer hereby covenants and agrees that it will not institute against, or join any other Person in instituting against, the Borrower any Insolvency Proceeding until one year and one day after the Final Payout Date; *provided*, that the Administrative Agent may take any such action in its sole discretion following the occurrence of an Event of Default.

Section 14.06. Confidentiality. (a) Each of the Borrower and the Servicer covenants and agrees to hold in confidence, and not disclose to any Person, the terms of this Agreement (including any fees payable in connection with this Agreement or any other Transaction Document or the identity of the Administrative Agent or any other Credit Party), except as the Administrative Agent and the LC Bank may have consented to in writing prior to any proposed disclosure; provided, however, that it may disclose such information (i) to its Advisors and Representatives, (ii) to the extent such information has become available to the public other than as a result of a disclosure by or through the Borrower, the Servicer or their Advisors and Representatives or (iii) to the extent it should be (A) required by Applicable Law, or in connection with any legal or regulatory proceeding or (B) requested by any Governmental Authority to disclose such information; provided, that, in the case of clause (iii) above, the Borrower and the Servicer will use reasonable efforts to maintain confidentiality and will (unless otherwise prohibited by Applicable Law) notify the Administrative Agent and the affected Credit Party of its intention to make any such disclosure prior to making such disclosure. Each of the Borrower and the Servicer agrees to be responsible for any breach of this Section by its Representatives and Advisors and agrees that its Representatives and Advisors will be advised by it of the confidential nature of such information and shall agree to comply with

this Section. Notwithstanding the foregoing, it is expressly agreed that each of the Borrower, the Servicer and their respective Affiliates may publish a press release or otherwise publicly announce the existence and principal amount of the Commitments under this Agreement and the transactions contemplated hereby; *provided* that the Administrative Agent shall be provided a reasonable opportunity to review such press release or other public announcement prior to its release and provide comment thereon; and provided, further, that no such press release shall name or otherwise identify the Administrative Agent, any other Credit Party or any of their respective Affiliates without such Person's prior written consent (such consent not to be unreasonably withheld, conditioned or delayed). Notwithstanding the foregoing, the Borrower consents to the publication by the Administrative Agent or any other Credit Party of a tombstone or similar advertising material relating to the financing transactions contemplated by this Agreement.

(b) Each of the Administrative Agent and each other Credit Party, severally and with respect to itself only, agrees to hold in confidence, and not disclose to any Person, any confidential and proprietary information concerning the Borrower, the Servicer and their respective Affiliates and their businesses or the terms of this Agreement (including any fees payable in connection with this Agreement or the other Transaction Documents), except as the Borrower or the Servicer may have consented to in writing prior to any proposed disclosure; provided, however, that it may disclose such information (i) to its Advisors and Representatives, (ii) to its assignees and Participants and potential assignees and Participants and their respective counsel if they agree in writing to hold it confidential, (iii) to the extent such information has become available to the public other than as a result of a disclosure by or through it or its Representatives or Advisors, (iv) at the request of a bank examiner or other regulatory authority or in connection with an examination of any of the Administrative Agent or the LC Bank or their respective Affiliates or (v) to the extent it should be (A) required by Applicable Law, or in connection with any legal or regulatory proceeding or (B) requested by any Governmental Authority to disclose such information; *provided*, that, in the case of clause (v) above, the Administrative Agent and the LC Bank will use reasonable efforts to maintain confidentiality and will (unless otherwise prohibited by Applicable Law) notify the Borrower and the Servicer of its making any such disclosure as promptly as reasonably practicable thereafter. Each of the Administrative Agent and the LC Bank, severally and with respect to itself only, agrees to be responsible for any breach of this Section by its Representatives and Advisors and agrees that its Representatives and Advisors will be advised by it of the confidential nature of such information and shall agree to comply with this Section.

(c) As used in this Section, (i) "Advisors" means, with respect to any Person, such Person's accountants, attorneys and other confidential advisors and (ii) "Representatives" means, with respect to any Person, such Person's Affiliates, Subsidiaries, directors, managers, officers, employees, members, investors, financing sources (other than any Credit Party), insurers, professional advisors, representatives and agents; *provided* that such Persons shall not be deemed to Representatives of a Person unless (and solely to the extent that) confidential information is furnished to such Person.

(d) Notwithstanding the foregoing, to the extent not inconsistent with applicable securities laws, each party hereto (and each of its employees, representatives or other agents) may disclose to any and all persons, without limitation of any kind, the tax treatment and tax structure (as defined in Section 1.6011-4 of the Treasury Regulations) of the transactions contemplated by the Transaction Documents and all materials of any kind (including opinions or other tax analyses) that are provided to such Person relating to such tax treatment and tax structure.

Section 14.07. GOVERNING LAW. THIS AGREEMENT, INCLUDING THE RIGHTS AND DUTIES OF THE PARTIES HERETO, SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK (INCLUDING SECTIONS 5-1401 AND 5-1402 OF THE GENERAL OBLIGATIONS LAW OF THE STATE OF NEW YORK, BUT WITHOUT REGARD TO ANY OTHER CONFLICTS OF LAW PROVISIONS THEREOF, EXCEPT TO THE EXTENT THAT THE PERFECTION, THE EFFECT OF PERFECTION OR PRIORITY OF THE INTERESTS OF ADMINISTRATIVE AGENT OR THE LC BANK IN THE COLLATERAL IS GOVERNED BY THE LAWS OF A JURISDICTION OTHER THAN THE STATE OF NEW YORK).

Section 14.08. Execution in Counterparts. This Agreement may be executed in any number of counterparts, each of which when so executed shall be deemed to be an original and all of which when taken together shall constitute one and the same agreement. Delivery of an executed counterpart hereof by facsimile or other electronic means shall be equally effective as delivery of an originally executed counterpart.

Section 14.09. Integration; Binding Effect; Survival of Termination. This Agreement and the other Transaction Documents contain the final and complete integration of all prior expressions by the parties hereto with respect to the subject matter hereof and shall constitute the entire agreement among the parties hereto with respect to the subject matter hereof superseding all prior oral or written understandings. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns. This Agreement shall create and constitute the continuing obligations of the parties hereto in accordance with its terms and shall remain in full force and effect until the Final Payout Date; *provided, however*, that the provisions of Sections 3.08, 3.09, 3.10, 5.01, 5.02, 5.03, 11.04, 11.06, 13.01, 13.02, 14.04, 14.05, 14.06, 14.09, 14.10, and 14.13 shall survive any termination of this Agreement.

Section 14.10. CONSENT TO JURISDICTION. (a) EACH PARTY HERETO HEREBY IRREVOCABLY SUBMITS TO THE NON-EXCLUSIVE JURISDICTION OF ANY NEW YORK STATE OR FEDERAL COURT SITTING IN NEW YORK CITY, NEW YORK IN ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT, AND EACH PARTY HERETO HEREBY IRREVOCABLY AGREES THAT ALL CLAIMS IN RESPECT OF SUCH ACTION OR PROCEEDING MAY BE HEARD AND DETERMINED IN SUCH NEW YORK STATE COURT OR, TO THE EXTENT PERMITTED BY LAW, IN SUCH FEDERAL COURT. EACH OF THE BORROWER AND THE SERVICER HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT IT MAY EFFECTIVELY DO SO, THE DEFENSE OF AN INCONVENIENT FORUM TO THE MAINTENANCE OF SUCH ACTION OR PROCEEDING. NOTHING IN THIS SECTION 14.10 SHALL AFFECT THE RIGHT OF THE ADMINISTRATIVE AGENT OR ANY OTHER CREDIT PARTY TO BRING ANY ACTION OR PROCEEDING AGAINST THE BORROWER OR THE SERVICER OR ANY OF THEIR RESPECTIVE PROPERTY IN THE

COURTS OF OTHER JURISDICTIONS. THE PARTIES HERETO AGREE THAT A FINAL JUDGMENT IN ANY SUCH ACTION OR PROCEEDING SHALL BE CONCLUSIVE AND MAY BE ENFORCED IN OTHER JURISDICTIONS BY SUIT ON THE JUDGMENT OR IN ANY OTHER MANNER PROVIDED BY LAW.

(b) EACH OF THE BORROWER AND THE SERVICER CONSENTS TO THE SERVICE OF ANY AND ALL PROCESS IN ANY SUCH ACTION OR PROCEEDING BY THE MAILING OF COPIES OF SUCH PROCESS TO IT AT ITS ADDRESS SPECIFIED IN SECTION 14.02. NOTHING IN THIS SECTION 14.10 SHALL AFFECT THE RIGHT OF THE ADMINISTRATIVE AGENT OR ANY OTHER CREDIT PARTY TO SERVE LEGAL PROCESS IN ANY OTHER MANNER PERMITTED BY APPLICABLE LAW.

Section 14.11. WAIVER OF JURY TRIAL. EACH PARTY HERETO HEREBY WAIVES, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, TRIAL BY JURY IN ANY JUDICIAL PROCEEDING INVOLVING, DIRECTLY OR INDIRECTLY, ANY MATTER (WHETHER SOUNDING IN TORT, CONTRACT OR OTHERWISE) IN ANY WAY ARISING OUT OF, RELATED TO, OR CONNECTED WITH THIS AGREEMENT OR ANY OTHER TRANSACTION DOCUMENT.

Section 14.12. Ratable Payments. If any Credit Party, whether by setoff or otherwise, has payment made to it with respect to any Borrower Obligations in a greater proportion than that received by any other Credit Party entitled to receive a ratable share of such Borrower Obligations, such Credit Party agrees, promptly upon demand, to purchase for cash without recourse or warranty a portion of such Borrower Obligations held by the other Credit Parties so that after such purchase each Credit Party will hold its ratable proportion of such Borrower Obligations; *provided* that if all or any portion of such excess amount is thereafter recovered from such Credit Party, such purchase shall be rescinded and the purchase price restored to the extent of such recovery, but without interest.

Section 14.13. Limitation of Liability. (a) No claim may be made by the Borrower or any Affiliate thereof or any other Person against any Credit Party or their respective Affiliates, members, directors, officers, employees, incorporators, attorneys or agents for any special, indirect, consequential or punitive damages in respect of any claim for breach of contract or any other theory of liability arising out of or related to the transactions contemplated by this Agreement or any other Transaction Document, or any act, omission or event occurring in connection herewith or therewith; and each of the Borrower and the Servicer hereby waives, releases, and agrees not to sue upon any claim for any such damages, whether or not accrued and whether or not known or suspected to exist in its favor. None of the Credit Parties and their respective Affiliates shall have any liability to the Borrower or any Affiliate thereof or any other Person asserting claims on behalf of or in right of the Borrower or any Affiliate thereof in connection with or as a result of this Agreement or any other Transaction Document or the transactions contemplated hereby or thereby, except to the extent that any losses, claims, damages, liabilities or expenses incurred by the Borrower or any Affiliate thereof result from the breach of contract, gross negligence or willful misconduct of such Credit Party in performing its duties and obligations hereunder and under the other Transaction Documents to which it is a party.

(b) The obligations of the Administrative Agent and each of the other Credit Parties under this Agreement and each of the Transaction Documents are solely the corporate obligations of such

Person. No recourse shall be had for any obligation or claim arising out of or based upon this Agreement or any other Transaction Document against any member, director, officer, employee or incorporator of any such Person.

Section 14.14. Intent of the Parties. The Borrower has structured this Agreement with the intention that the issuance and usage of Letters of Credit, the Reimbursement Obligations and the other obligations of the Borrower hereunder will be treated under United States federal, and applicable state, local and foreign tax law as debt (the “*Intended Tax Treatment*”). The Borrower, the Servicer, the Administrative Agent and the other Credit Parties agree to file no tax return, or take any action, inconsistent with the Intended Tax Treatment unless required by applicable law. Each assignee and each Participant acquiring an interest in a Credit Extension, by its acceptance of such assignment or participation, agrees to comply with the immediately preceding sentence.

Section 14.15. USA Patriot Act. Each of the Administrative Agent and each of the other Credit Parties hereby notifies the Borrower and the Servicer that pursuant to the requirements of the USA Patriot Act, Title III of Pub. L. 107-56 (signed into law October 26, 2001) (the “*Patriot Act*”), the Administrative Agent and the other Credit Parties may be required to obtain, verify and record information that identifies the Borrower, the Originators, the Servicer and the Performance Guarantor, which information includes the name, address, tax identification number and other information regarding the Borrower, the Originators, the Servicer and the Performance Guarantor that will allow the Administrative Agent and the other Credit Parties to identify the Borrower, the Originators, the Servicer and the Performance Guarantor in accordance with the Patriot Act. This notice is given in accordance with the requirements of the Patriot Act. Each of the Borrower and the Servicer agrees to provide the Administrative Agent and each other Credit Party, from time to time, with all documentation and other information required by bank regulatory authorities under “know your customer” and anti-money laundering rules and regulations, including, without limitation, the Patriot Act.

Section 14.16. Right of Setoff. Each Credit Party is hereby authorized (in addition to any other rights it may have), at any time during the continuance of an Event of Default, to setoff, appropriate and apply (without presentment, demand, protest or other notice which are hereby expressly waived) any deposits and any other indebtedness held or owing by such Credit Party (including by any branches or agencies of such Credit Party) to, or for the account of, the Borrower or the Servicer against amounts owing by the Borrower or the Servicer hereunder (even if contingent or unmatured); *provided* that such Credit Party shall notify the Borrower or the Servicer, as applicable, promptly following such setoff.

Section 14.17. Severability. Any provisions of this Agreement which are prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

Section 14.18. Mutual Negotiations. This Agreement and the other Transaction Documents are the product of mutual negotiations by the parties thereto and their counsel, and no party shall

be deemed the draftsman of this Agreement or any other Transaction Document or any provision hereof or thereof or to have provided the same. Accordingly, in the event of any inconsistency or ambiguity of any provision of this Agreement or any other Transaction Document, such inconsistency or ambiguity shall not be interpreted against any party because of such party's involvement in the drafting thereof.

Section 14.19. Captions and Cross References. The various captions (including the table of contents) in this Agreement are provided solely for convenience of reference and shall not affect the meaning or interpretation of any provision of this Agreement. Unless otherwise indicated, references in this Agreement to any Section, Schedule or Exhibit are to such Section, Schedule or Exhibit to this Agreement, as the case may be, and references in any Section, subsection, or clause to any subsection, clause or subclause are to such subsection, clause or subclause of such Section, subsection or clause.

[SIGNATURE PAGES FOLLOW]

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their respective officers thereunto duly authorized, as of the date first above written.

DAVEY RECEIVABLES LLC

By: /s/Christopher J. Bast
Name: Christopher J. Bast, CPA, CTP
Title: Treasurer

THE DAVEY TREE EXPERT COMPANY,
as the Servicer

By: /s/Christopher J. Bast
Name: Christopher J. Bast, CPA, CTP
Title: Treasurer

PNC BANK, NATIONAL ASSOCIATION,
as Administrative Agent

By: /s/ Michael Brown
Name: Michael Brown
Title: Senior Vice President

PNC BANK, NATIONAL ASSOCIATION,
as LC Bank

By: /s/ Michael Brown
Name: Michael Brown
Title: Senior Vice President

PNC BANK, NATIONAL ASSOCIATION,
as Structuring Agent

By: /s/ Michael Brown
Name: Michael Brown
Title: Senior Vice President

EXHIBIT A
FORM OF LC REQUEST

[Letterhead of Borrower]

[Date]

[Administrative Agent]

Re: LC Request

Ladies and Gentlemen:

Reference is hereby made to that certain Receivables Financing Agreement, dated as of May 9, 2016, among Davey Receivables LLC (the “*Borrower*”), The Davey Tree Expert Company, as Servicer (the “*Servicer*”), and PNC Bank, National Association, as Administrative Agent (in such capacity, the “*Administrative Agent*”) and as the LC Bank (as amended, supplemented or otherwise modified from time to time, the “*Agreement*”). Capitalized terms used in this LC Request and not otherwise defined herein shall have the meanings assigned thereto in the Agreement.

This letter constitutes an LC Request pursuant to Section 3.02(a) of the Agreement. The Borrower hereby request that the LC Bank issue a Letter of Credit with a face amount of [\$ _____] on [_____, 201__]. After giving effect to such issuance, the LC Amount will be [\$_____].

The Borrower hereby represents and warrants as of the date hereof, and after giving effect to the issuance of such Letter of Credit, as follows:

- (i) the representations and warranties of the Borrower and the Servicer contained in Sections 7.01 and 7.02 of the Agreement are true and correct in all material respects on and as of the date of issuance of such Letter of Credit as though made on and as of such date unless such representations and warranties by their terms refer to an earlier date, in which case they shall be true and correct in all material respects on and as of such earlier date;
- (ii) no Event of Default or Unmatured Event of Default has occurred and is continuing, and no Event of Default or Unmatured Event of Default would result from the issuance of such Letter of Credit;
- (iii) no Borrowing Base Deficit exists or would exist after giving effect to the issuance of such Letter of Credit; and
- (iv) the Termination Date has not occurred.

IN WITNESS WHEREOF, the undersigned has executed this letter by its duly authorized officer as of the date first above written.

Very truly yours,

DAVEY RECEIVABLES LLC

By: _____
Name: _____
Title: _____

EXHIBIT B
FISCAL MONTH
THE DAVEY TREE EXPERT COMPANY
MONTH END DATES THROUGH 2031

Fiscal Year 2016		Fiscal Year 2017		Fiscal Year 2018		Fiscal Year 2019		Fiscal Year 2020	
Month-End Date	# wks in Month	Month-End Date	# wks in Month	Month-End Date	# wks in Month	Month-End Date	# wks in Month	Month-End Date	# wks in Month
1/30/16	4	1/28/17	4	1/27/18	4	1/26/19	4	1/25/20	4
2/27/16	4	2/25/17	4	2/24/18	4	2/23/19	4	2/22/20	4
4/2/16	5	4/1/17	5	3/31/18	5	3/30/19	5	3/28/20	5
4/30/16	4	4/29/17	4	4/28/18	4	4/27/19	4	4/25/20	4
5/28/16	4	5/27/17	4	5/26/18	4	5/25/19	4	5/23/20	4
7/2/16	5	7/1/17	5	6/30/18	5	6/29/19	5	6/27/20	5
7/30/16	4	7/29/17	4	7/28/18	4	7/27/19	4	7/25/20	4
8/27/16	4	8/26/17	4	8/25/18	4	8/24/19	4	8/22/20	4
10/1/16	5	9/30/17	5	9/29/18	5	9/28/19	5	9/26/20	5
10/29/16	4	10/28/17	4	10/27/18	4	10/26/19	4	10/24/20	4
12/3/16	5	12/2/17	5	12/1/18	5	11/30/19	5	11/28/20	5
12/31/16	4	12/30/17	4	12/29/18	4	12/28/19	4	1/2/21	5
Wks in Year	<u>52</u>	Wks in Year	<u>52</u>	Wks in Year	<u>52</u>	Wks in Year	<u>52</u>	Wks in Year	<u>53</u>

Fiscal Year 2021		Fiscal Year 2022		Fiscal Year 2023		Fiscal Year 2024		Fiscal Year 2025	
Month-End	# wks in	Month-End	# wks in	Month-End	# wks in	Month-End	# wks in	Month-End	# wks in
Date	Month	Date	Month	Date	Month	Date	Month	Date	Month
1/30/21	4	1/29/22	4	1/28/23	4	1/27/24	4	1/25/25	4
2/27/21	4	2/26/22	4	2/25/23	4	2/24/24	4	2/22/25	4
4/3/21	5	4/2/22	5	4/1/23	5	3/30/24	5	3/29/25	5
5/1/21	4	4/30/22	4	4/29/23	4	4/27/24	4	4/26/25	4
5/29/21	4	5/28/22	4	5/27/23	4	5/25/24	4	5/24/25	4
7/3/21	5	7/2/22	5	7/1/23	5	6/29/24	5	6/28/25	5
7/31/21	4	7/30/22	4	7/29/23	4	7/27/24	4	7/27/25	4
8/28/21	4	8/27/22	4	8/26/23	4	8/24/24	4	8/23/25	4
10/2/21	5	10/1/22	5	9/30/23	5	9/28/24	5	9/27/25	5
10/30/21	4	10/29/22	4	10/28/23	4	10/26/24	4	10/25/25	4
12/4/21	5	12/3/22	5	12/2/23	5	11/30/24	5	11/29/25	5
1/1/22	4	12/31/22	4	12/30/23	4	12/28/24	4	12/27/25	4
Wks in Year	<u>52</u>	Wks in Year	<u>52</u>	Wks in Year	<u>52</u>	Wks in Year	<u>52</u>	Wks in Year	<u>52</u>

Fiscal Year 2026		Fiscal Year 2027		Fiscal Year 2028		Fiscal Year 2029		Fiscal Year 2030	
Month-End	# wks in	Month-End	# wks in	Month-End	# wks in	Month-End	# wks in	Month-End	# wks in
Date	Month	Date	Month	Date	Month	Date	Month	Date	Month
1/24/26	4	1/30/27	4	1/29/28	4	1/27/29	4	1/26/30	4
2/21/26	4	2/27/27	4	2/26/28	4	2/24/29	4	2/23/30	4
3/28/26	5	4/3/27	5	4/1/28	5	3/31/29	5	3/30/30	5
4/25/26	4	5/1/27	4	4/29/28	4	4/28/29	4	4/27/30	4
5/23/26	4	5/29/27	4	5/27/28	4	5/26/29	4	5/25/30	4
6/27/26	5	7/3/27	5	7/1/28	5	6/30/29	5	6/29/30	5
7/25/26	4	7/31/27	4	7/29/28	4	7/28/29	4	7/27/30	4
8/22/26	4	8/28/27	4	8/26/28	4	8/25/29	4	8/24/30	4
9/26/26	5	10/2/27	5	9/30/28	5	9/29/29	5	9/28/30	5
10/24/26	4	10/30/27	4	10/28/28	4	10/27/29	4	10/26/30	4
11/28/26	5	12/4/27	5	12/4/28	5	12/1/29	5	11/30/30	5
1/2/27	5	1/1/28	4	1/2/29	4	12/29/29	4	12/28/30	4
Wks in Year	<u>53</u>	Wks in Year	<u>52</u>	Wks in Year	<u>52</u>	Wks in Year	<u>52</u>	Wks in Year	<u>52</u>

Fiscal Year 2031	
Month-End	# wks in
Date	Month
1/25/31	4
2/22/31	4
3/29/31	5
4/26/31	4
5/24/31	4
6/28/31	5
7/26/31	4
8/23/31	4
9/27/31	5
10/25/31	4
11/29/31	5
12/27/31	4
Wks in Year	<u>52</u>

EXHIBIT C

[RESERVED]

EXHIBIT D

FORM OF LETTER OF CREDIT APPLICATION

(Attached)

EXHIBIT E

CREDIT AND COLLECTION POLICY

(Attached)

EXHIBIT F

FORM OF INFORMATION PACKAGE

(Attached)

EXHIBIT G

FORM OF COMPLIANCE CERTIFICATE

To: PNC Bank, National Association, as Administrative Agent

This Compliance Certificate is furnished pursuant to that certain Receivables Financing Agreement, dated as of May 9, 2016 among Davey Receivables LLC (the “*Borrower*”), The Davey Tree Expert Company, as Servicer (the “*Servicer*”), and PNC Bank, National Association, as Administrative Agent (in such capacity, the “*Administrative Agent*”) and as the LC Bank (as amended, supplemented or otherwise modified from time to time, the “*Agreement*”). Capitalized terms used herein and not otherwise defined herein shall have the meanings assigned to them in the Agreement.

The undersigned hereby certifies that:

1. I am the duly elected _____ of the Servicer.
2. I have reviewed the terms of the Agreement and each of the other Transaction Documents and I have made, or have caused to be made under my supervision, a detailed review of the transactions and condition of the Borrower during the accounting period covered by the attached financial statements.
3. The examinations described in paragraph 2 above did not disclose, and I have no knowledge of, the existence of any condition or event which constitutes an Event of Default or an Unmatured Event of Default, as each such term is defined under the Agreement, during or at the end of the accounting period covered by the attached financial statements or as of the date of this Certificate[, except as set forth in paragraph 5 below].
4. Schedule I attached hereto sets forth financial statements of the Servicer and its Subsidiaries for the period referenced on such Schedule I.
- [5. Described below are the exceptions, if any, to paragraph 3 above by listing, in detail, the nature of the condition or event, the period during which it has existed and the action which Servicer has taken, is taking, or proposes to take with respect to each such condition or event:]

201_.

The foregoing certifications are made and delivered this _____ day of _____,

THE DAVEY TREE EXPERT COMPANY

By: _____
Name: _____
Title: _____

SCHEDULE I
TO COMPLIANCE CERTIFICATE

A. Schedule of Compliance as of _____, 201_ with Section(s) ____ of the Agreement. Unless otherwise defined herein, the terms used in this Compliance Certificate have the meanings ascribed thereto in the Agreement.

This schedule relates to the [quarter] [fiscal year] ended: _____.

B. The following financial statements of the Servicer and its Subsidiaries for the period ending on _____, 201_, are attached hereto:

EXHIBIT H

CLOSING MEMORANDUM

(Attached)

RECEIVABLES PURCHASE AGREEMENT

Dated as of May 9, 2016

among

THE DAVEY TREE EXPERT COMPANY

and

DAVEY TREE SURGERY COMPANY

as Originators,

and

DAVEY RECEIVABLES LLC

as Buyer

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EXHIBIT D	- LOCK-BOXES, COLLECTION ACCOUNTS AND COLLECTION ACCOUNT BANKS
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THIS RECEIVABLES PURCHASE AGREEMENT dated as of May 9, 2016 (this “Agreement”) is among THE DAVEY TREE EXPERT COMPANY (“Davey Tree”), an Ohio corporation and Davey Tree Surgery Company, an Ohio corporation (“Surgery”) (each, together with any Subsidiary of Davey Tree becoming a party hereto by executing a Joinder Agreement (as hereinafter defined), herein referred to collectively as the “Originators” and each individually an “Originator”) and DAVEY RECEIVABLES LLC, an Ohio limited liability company (the “Buyer”). The parties agree as follows:

SECTION 1. DEFINITIONS AND RELATED MATTERS.

Section 1.1. Defined Terms. Capitalized terms used but not defined in this Agreement shall have the meanings set forth in the Receivables Financing Agreement, and if not defined therein, such terms shall be defined as defined in Article 9 of the New York UCC. In addition, the following terms will have the meanings specified below:

“Administrative Agent” means PNC, as agent for the LC Bank and its assigns under the Receivables Financing Agreement, together with its successors and assigns in such capacity.

“Buyer” has the meaning set forth in the preamble.

“Calculation Period” means a calendar month.

“Closing Date” means the date on which this Agreement becomes effective in accordance with its terms.

“Collection Account” means each account listed on Exhibit D to this Agreement (as such schedule may be modified from time to time in connection with the closing or opening of any Collection Account in accordance with the terms hereof) (in each case, in the name of the Buyer) and maintained at a bank or other financial institution acting as a Collection Account Bank pursuant to an Account Control Agreement for the purpose of receiving Collections.

“Collections” means, with respect to any Receivable: (a) all funds that are received by any Originator or any other Person on their behalf in payment of any amounts owed in respect of such Receivable (including purchase price, finance charges, interest and all other charges), or applied to amounts owed in respect of such Receivable (including insurance payments and net proceeds of the sale or other disposition of repossessed goods or other collateral or property of the related Obligor or any other Person directly or indirectly liable for the payment of such Receivable and available to be applied thereon), (b) all Deemed Collections with respect to such Receivable, (c) all proceeds of all Related Security with respect to such Receivable and (d) all other proceeds of such Receivable.

“Credit and Collection Policy” means each Originator’s credit and collection policies and practices relating to its Contracts and Receivables in effect on the date hereof, as modified from time to time in accordance with this Agreement and the Receivables Financing Agreement.

“Discount” means, in respect of each purchase of a Receivable pursuant to Section 2.1 hereof, 0.80% of the Outstanding Balance of such Receivable; provided, however, the foregoing Discount may be revised prospectively by request of either of the parties hereto to reflect changes in recent experience with respect to write-offs, timing and cost of Collections and cost of funds, provided that such revision is consented to by each of the parties hereto (it being understood that each party agrees to duly consider such request but shall have no obligation to give such consent).

“Eligible Receivable” shall have the meaning set forth in the Receivables Financing Agreement; *provided, however*, that for purposes of this Agreement, clauses (d), (l) and (m) of such definition shall be satisfied to the extent that immediately after the transfer from the Originator to the Buyer hereunder each such clause is true.

“Excluded Losses” is defined in Section 7.1 hereof.

“Excluded Receivable” means each Receivable listed on Exhibit E hereto, as such Exhibit E may be updated from time to time after the Closing Date with the written consent of the Originator, the Buyer and the Administrative Agent.

“Initial Conveyance Date” means the date of the first conveyance by the Buyer from the Originators initially party hereto under this Agreement.

“Intangible Assets” means, with respect to any Person, that portion of the book value of all of such Person’s assets that would be treated as intangibles under GAAP.

“Joinder Agreement” means a joinder agreement, in substantially the form of Exhibit C hereto (appropriately completed), that has been duly executed by the applicable Originator and the Buyer pursuant to which such Originator becomes party to this Agreement and which sets forth certain terms and conditions applicable to such Originator under this Agreement.

“Joinder Effective Date” is defined in Section 2.1 hereof.

“LC Bank” means PNC, together with its successors and assigns.

“LC Reduction Amount” has the meaning set forth in Section 2.4 hereof.

“LC Reduction Notice” has the meaning set forth in Section 2.4 hereof.

“Lock-Box” means each locked postal box with respect to which a Collection Account Bank who has executed an Account Control Agreement pursuant to which it has

been granted exclusive access for the purpose of retrieving and processing payments made on the Receivables and which is listed on Exhibit D (as such exhibit may be modified from time to time in connection with the addition or removal of any Lock-Box in accordance with the terms hereof).

“Maximum Subordinated Note Balance” means the amount at which the aggregate principal amount of all of the Subordinated Notes causes the Buyer’s Tangible Net Worth to be less than 3% of the aggregate Outstanding Balance of the Receivables then owned by the Buyer.

“Originator” has the meaning set forth in the preamble.

“PNC” means PNC Bank, National Association.

“Purchase” means the purchase of Receivables, Related Security, Sold Assets and Collections related thereto by the Buyer from each Originator pursuant to Section 2.1 of this Agreement.

“Purchase Price” means, with respect to each purchase pursuant to Section 2.1 of this Agreement, an amount equal to the Outstanding Balance of the Receivables that are the subject of such purchase minus the aggregate Discount applicable to such Receivables.

“Purchased Receivables” means all Receivables purchased by the Buyer from the Originators pursuant to this Agreement and not otherwise repurchased by an Originator in accordance with the terms hereof.

“Receivables Financing Agreement” means that certain Receivables Financing Agreement dated as of May 9, 2016, among Davey Receivables LLC, as Borrower, Davey Tree, as initial Servicer, PNC, as LC Bank and as Administrative Agent and PNC Capital Markets LLC, as Structuring Agent, as such agreement may be amended or modified from time to time.

“Related Security” means, with respect to any Receivable:

- (a) all of each Originator’s interest in any goods (including returned goods), and documentation of title evidencing the shipment or storage of any goods (including returned goods), the sale of which gave rise to such Receivable;
- (b) all instruments and chattel paper that may evidence such Receivable;
- (c) all other security interests or liens and property subject thereto from time to time purporting to secure payment of such Receivable, whether pursuant to the Contract related to such Receivable or otherwise, together with all UCC financing statements or similar filings relating thereto; and

(d) all of each Originator's rights, interests and claims under the related Contracts and all guaranties, indemnities, insurance and other agreements (including the related Contract) or arrangements of whatever character from time to time supporting or securing payment of such Receivable or otherwise relating to such Receivable, whether pursuant to the Contract related to such Receivable or otherwise.

"Required LC Collateral Amount" means, at any time, the amount required to be on deposit in the LC Collateral Account pursuant to Sections 3.04(b) and 4.01(a)(iii) of the Receivables Financing Agreement.

"Servicer" means, initially, Davey Tree, as initial Servicer under the Receivables Financing Agreement, and any Person authorized to service, administer and collect Purchased Receivables under the Receivables Financing Agreement.

"Sold Assets" means all of each Originator's right, title and interest, whether now owned and existing or hereafter arising in and to all of (i) the Purchased Receivables, (ii) the Related Security with respect to such Purchased Receivables, (iii) all Collections with respect to such Purchased Receivables and any related investment property acquired with any such Collections or other proceeds (as such term is defined in the applicable UCC), (iv) all rights, remedies, powers, privileges, title and interest (but not obligations) of such Originator in and to the Lock-Boxes and Collection Accounts and all amounts on deposit therein, and all certificates and instruments, if any, from time to time evidencing such Lock-Boxes and Collection Accounts and amounts on deposit therein, (v) all books and records of such Originator to the extent related to any of the foregoing, and (vi) all proceeds of the foregoing (as defined in the UCC), including, without limitation, all funds which either are received by such Originator, the Buyer or the Servicer from or on behalf of the Obligors in payment of any amounts owed (including, without limitation, invoice price, finance charges, interest and all other charges) in respect of any of the above Receivables or are applied to such amounts owed by the Obligors (including, without limitation, any insurance payments that such Originator, the Buyer or the Servicer applies in the ordinary course of its business to amounts owed in respect of any of the above Receivables, and net proceeds of sale or other disposition of repossessed goods or other collateral or property of the Obligors in respect of any of the above Receivables or any other parties directly or indirectly liable for payment of such Receivables).

"Subordinated Note" means a Subordinated Note between an Originator and the Buyer substantially in the form of Exhibit A hereto.

"Subsidiary" means, as to any Person, a corporation, partnership, limited liability company or other entity of which shares of stock of each class or other interests having ordinary voting power (other than stock or other interests having such power only by reason of the happening of a contingency) to elect a majority of the board of directors or other managers of such entity are at the time owned, or management of which is otherwise controlled: (a) by such Person, (b) by one or more Subsidiaries of such Person or (c) by such Person and one or more Subsidiaries of such Person.

“Tangible Net Worth” of a Person means, as of any date of determination, determined on a consolidated basis and in accordance with GAAP, the result of (a) such Person’s total stockholders’ or members’ equity (including, without limitation, preferred stock), *plus* (b) all Debt under the Subordinated Notes, *minus* (c) the sum of all Intangible Assets of such Person.

“Termination Date” means the date on which a termination of the purchase and sale of Receivables hereunder shall have occurred pursuant to Section 6.1 or 6.2 hereof.

Section 1.2. Other Interpretive Matters. In this Agreement, unless otherwise specified: (a) references to any Section or Annex refer to such Section of, or Annex to, this Agreement, and references in any Section or definition to any subsection or clause refer to such subsection or clause of such Section or definition; (b) “herein”, “hereof”, “hereto”, “hereunder” and similar terms refer to this Agreement as a whole and not to any particular provision of this Agreement; (c) “including” means including without limitation, and other forms of the verb “to include” have correlative meanings; (d) the word “or” is not exclusive; and (e) captions are solely for convenience of reference and shall not affect the meaning of this Agreement.

SECTION 2. AGREEMENT TO PURCHASE AND SELL.

Section 2.1. Sales and Purchases. Effective on the date hereof, in consideration of the Purchase Price and upon the terms and subject to the conditions set forth herein, each of the Originators hereby sells, assigns, transfers, sets-over and otherwise conveys or (in the case of Davey Tree at its option) contributes to the Buyer, without recourse (except to the extent expressly provided in this Agreement), and the Buyer hereby purchases (or accepts the contribution, as applicable) from each of the Originators, all of such Originator’s right, title and interest in and to (i) all Receivables owned by the Originators as of the opening of business on the Closing Date, (ii) all Receivables that arise or are created by an Originator thereafter through and including such Originator’s Termination Date, (iii) all Related Security, and Collections relating to or arising from the aforementioned Receivables, in each case, whether now owned and existing or hereafter arising or acquired, and (iv) all other Sold Assets related thereto. In accordance with the preceding sentence, on the date hereof, each Originator shall sell and assign or (at the option of Davey Tree) contribute to the Buyer, and the Buyer shall acquire all of such Originator’s right, title and interest in and to all Receivables of such Originator existing as of the opening of business on the Closing Date together with all Related Security, Collections and other Sold Assets relating thereto. On each Business Day after the date hereof, each Originator shall sell or (at the option of Davey Tree) contribute and Buyer shall acquire all of such Originator’s right, title and interest in and to all Receivables generated by such Originator which have not previously been sold or contributed to the Buyer arising through and including such Originator’s Termination Date, together with all Related Security, all Collections and other Sold Assets relating thereto. The Buyer shall be obligated to pay the Purchase Price for the Receivables purchased hereunder in accordance with Section 2.2. In connection with each acquisition of Receivables hereunder, the Buyer may request that the applicable Originator deliver, and such Originator shall deliver, such approvals, opinions, information, reports or documents as the Buyer may reasonably request.

In the case of any Originator that becomes a party hereto by executing a Joinder Agreement, on each effective date of a Joinder Agreement (each Originator's "Joinder Effective Date"), such Originator shall have all rights and obligations of an Originator hereunder and such Originator shall sell, and the Buyer shall purchase, all of such Originator's right, title and interest in and to (i) all Receivables owned by the Originators as of the opening of business on the Joinder Effective Date, (ii) all Receivables that arise or are created by such Originator thereafter through and including such Originator's Termination Date, (iii) all Related Security and Collections relating to or arising from the aforementioned Receivables, in each case, whether now owned and existing or hereafter arising or acquired, and (iv) all other Sold Assets related thereto. All additional Sold Assets with respect to each Purchased Receivable conveyed hereunder shall be transferred at the same time as such Purchased Receivable, whether such Sold Assets exist at such time or arise or are acquired or otherwise arise thereafter.

Section 2.2. Payment for the Purchases. (a) The Receivables of each Originator in existence on the Initial Conveyance Date are hereby sold (or contributed, as applicable) and assigned to the Buyer by such Originator on the date hereof. Each Receivable of each Originator coming into existence after the Initial Conveyance Date, shall be sold or (at the option of Davey Tree) contributed to the Buyer on the Business Day occurring immediately after the day such Receivable is originated and the Purchase Price for such Receivable shall be due and owing in full by the Buyer to such Originator on such Business Day (except that the Buyer may, with respect to any such Purchase Price, offset against such Purchase Price any amounts owed by such Originator to the Buyer hereunder and which have become due but remain unpaid) and shall be paid to such Originator in the manner provided in the following paragraphs (b) and (c).

(b) With respect to any Receivables sold by any Originator hereunder after the date hereof, on the first Business Day after such Receivable is originated, such Receivable shall be sold to Buyer and on such date of Purchase, Buyer shall pay the Purchase Price therefor to such Originator in accordance with Section 2.2(c) and in the following manner:

(i) *first*, by delivery of immediately available funds, to the extent of funds available to Buyer from monies then held by or on behalf of the Buyer;

(ii) *second*, if the applicable Originator has requested a Letter of Credit pursuant to Section 2.4, the Purchase Price for each such Purchase may be made by delivery of such Letter of Credit or by any combination of delivery of funds pursuant to clause (i) above together with such Letter of Credit in an amount equal to the stated amount of the sum of the Letter of Credit plus the amount of such funds; and

(iii) *third*, the balance of such Purchase Price by an increase in the principal amount of the applicable Subordinated Note, in an amount not to exceed the least of (A) the remaining unpaid portion of such Purchase Price, and (B) such amount that will not cause the aggregate Subordinated Note principal balance to exceed the Maximum Subordinated Note Balance. Each Originator is hereby authorized by the Buyer to endorse on the schedule attached to the Subordinated Note an appropriate notation evidencing the date and amount of each increase of the principal amount thereunder to evidence the applicable Purchase

Price, as well as the date of each payment with respect thereto, provided that the failure to make such notation shall not affect any obligation of the Buyer thereunder.

The Purchase Price for the Receivables not paid in cash (or contributed to the Buyer) shall represent indebtedness of the Buyer to the applicable Originator evidenced by, and shall be payable in accordance with the terms and provisions of the applicable Subordinated Note and shall be payable solely from funds which the Buyer is not required under the Receivables Financing Agreement to set aside for the benefit of, or otherwise pay over to, the LC Bank; *provided*, that the Buyer may, with respect to the Purchase Price for any Receivables, offset against such Purchase Price any amounts owed by the applicable Originator to the Buyer hereunder that are due and unpaid.

(c) Although the Purchase Price for each Receivable coming into existence after the Initial Conveyance Date shall be due and payable in full by the Buyer to each Originator on the date such Receivable is purchased, settlement of the Purchase Price between the Buyer and such Originator shall be effected on a monthly basis no later than each Settlement Date with respect to all Receivables sold by such Originator during the same Calculation Period most recently ended prior to such Settlement Date and based on the information contained in the Information Package delivered by the Servicer pursuant to Section 8.02(a)(ii) of the Receivables Financing Agreement for such Calculation Period. Although settlement shall be effected on a monthly basis, increases or decreases in the amount owing under the applicable Subordinated Note made pursuant to Section 2.2(b) shall be deemed to have occurred and shall be effective as of the last Business Day of the Calculation Period to which such settlement relates.

(d) At all times prior to the applicable Originator Termination Date, notwithstanding any delay in the making of any payment of the Purchase Price in respect of any purchase under Section 2.1, all right, title and interest of each Originator in and to each Receivable originated by it shall be sold, assigned and otherwise transferred to the Buyer effective immediately and automatically upon the creation of such Receivable, without any further action of any type or kind being required on the part of any Person. The monthly settlement contemplated in this Section 2.2 has been devised solely for the administrative convenience of the parties hereto. The Buyer and each Originator may at any time, as may be agreed between themselves, elect to effect settlement on a more (but not less) frequent basis.

(e) To the extent that Collections received during any Calculation Period exceed the sum of (i) the aggregate Purchase Price payable for Receivables generated during such Calculation Period, *plus* (ii) amounts for which such Collections are required to be applied for such Calculation Period pursuant to the Receivables Financing Agreement, such excess may, to the extent permitted by the Receivables Financing Agreement, be treated as a reduction in the principal amount of the applicable Subordinated Note and may be paid to the applicable Originator, effective as of the last day of the related Calculation Period, and, if the principal amount of the applicable Subordinated Note is zero, such excess shall be released to the Buyer to use for other permitted purposes.

(f) Each Originator shall make all appropriate record keeping entries with respect to the applicable Subordinated Note to reflect payments by the Buyer thereon and such Originator's books and records shall constitute rebuttable presumptive evidence of the principal amount of and accrued

interest on the applicable Subordinated Note. Each Originator shall return the applicable Subordinated Note to the Buyer upon the final payment thereof after the termination of this Agreement pursuant to its terms.

Section 2.3. No Recourse or Assumption of Obligations. Except as specifically provided in this Agreement, the contribution, purchase and sale of Receivables and other Sold Assets under this Agreement shall be without recourse to any Originator, *provided, however,* that each Originator shall be liable to the Buyer and its assigns for all representations, warranties, covenants and indemnities made by such Originator (other than in its role as Servicer) pursuant to the terms of the Transaction Documents to which such Originator is a party. The Originators and the Buyer intend the transactions hereunder to constitute absolute and irrevocable true sales or other absolute conveyances of the Purchased Receivables and other Sold Assets by an Originator to the Buyer, providing the Buyer with the full risks and benefits of ownership of the Sold Assets (such that the Sold Assets would not be property of any Originator's estate in the event of such Originator's bankruptcy). If, however, despite the intention of the parties, the conveyances provided for in this Agreement are determined not to be "true sales" or other absolute conveyances of Receivables and the other Sold Assets from an Originator to the Buyer, then this Agreement shall also be deemed to be a "security agreement" within the meaning of Article 9 of the UCC and such Originator hereby grants to the Buyer a "security interest" within the meaning of Article 9 of the UCC in all of such Originator's right, title and interest in and to such Purchased Receivables and the other Sold Assets, now existing and hereafter created, to secure a loan in an amount equal to the aggregate purchase prices therefor and each of such Originator's other payment obligations under this Agreement.

The Buyer shall not have any obligation or liability with respect to any Receivable other than payment of the Purchase Price therefor, nor shall the Buyer have any obligation or liability to any Obligor or other customer or client of any Originator (including any obligation to perform any of the obligations of such Originator under any Receivable).

In view of the intention of the parties hereto that each sale of Receivables made hereunder shall constitute a true sale of such Receivables rather than a loan secured thereby, each Originator agrees that it has marked, or will mark prior to the date on which it becomes a party to this Agreement, in accordance with Section 5.1(1), its master data processing records relating to the Receivables with a legend reasonably acceptable to the Buyer and to the Administrative Agent (as the Buyer's assignee), evidencing that the Buyer has acquired such Receivables as provided in this Agreement and that it will note in its financial statements that its Receivables have been sold to the Buyer. Upon the request of the Buyer or the Administrative Agent (as the Buyer's assignee), each Originator will execute (if required) and file or authorize the filing of such financing or continuation statements, or amendments thereto or assignments thereof, and such other instruments or notices, as may be necessary or appropriate to perfect and maintain the perfection of the Buyer's ownership interest in the Receivables and the Related Security, Collections and other Sold Assets with respect thereto, or as the Buyer or the Administrative Agent (as the Buyer's assignee) may reasonably request.

Section 2.4. Letters of Credit. (a) Any Originator may request that the Purchase Price for Receivables sold on any date be paid by the Buyer procuring the issuance of a Letter of Credit by the LC Bank. Upon the receipt of such a request from an Originator, in accordance with Section 2.1 of this Agreement, and subject to the terms and conditions for issuing Letters of Credit under the Receivables Financing Agreement (including any limitations therein on the amount and timing of any such issuance), the Buyer agrees to cause the LC Bank to issue, on the dates specified by the applicable Originator, Letters of Credit on behalf of the Buyer (and, if applicable, on behalf of, or for the account of, any Originator in favor of such beneficiaries as such Originator may elect that are acceptable to the LC Bank in its sole discretion) in favor of the beneficiaries elected by such Originator or an Affiliate of such Originator, with the consent of the Buyer. The aggregate stated amount of the Letters of Credit being issued on any date on behalf of such Originator or an Affiliate of such Originator shall constitute a credit against the aggregate Purchase Price payable by the Buyer to the applicable Originator pursuant to Section 2.1 of this Agreement. To the extent that the aggregate stated amount of the Letters of Credit being issued on any date exceeds the aggregate Purchase Price payable by the Buyer to such Originator on such date, such excess shall be deemed to be (i) a reduction in the outstanding principal balance of (and, to the extent necessary, the accrued but unpaid interest on) the Subordinated Note payable to such Originator, to the extent the outstanding principal balance (and accrued interest) is greater than such excess and/or (ii) a reduction in the Purchase Price payable on the dates immediately following the date any such Letter of Credit is issued. In the event that any Letter of Credit issued on behalf of an Originator (i) expires or is cancelled or otherwise terminated with all or any portion of its stated amount undrawn, (ii) has its stated amount decreased (for a reason other than a drawing having been made thereunder) or (iii) the Buyer's obligation to reimburse the LC Bank for Reimbursement Obligations outstanding in respect thereof is reduced for any reason other than by virtue of a payment made in respect of a drawing thereunder, then an amount equal to such undrawn amount or such reduction (the "*LC Reduction Amount*"), as the case may be, shall be payable to such Originator by the Buyer following delivery by the Originator to the Buyer of written notice thereof (the "*LC Reduction Notice*") with a copy to the Administrative Agent and the LC Bank. If funds are available in the LC Collateral Account in excess of the Required LC Collateral Amount after taking into account such LC Reduction Amount, then payment of such LC Reduction Amount shall be made in whole or in part by the LC Bank withdrawing such excess funds from the LC Collateral Amount and paying them directly to such Originator in accordance with the instructions set forth in the LC Reduction Notice. The Buyer shall pay the unpaid portion of the LC Reduction Amount to the extent the remaining funds are available for such purpose from time to time from Collections available to the Buyer pursuant to Section 4.01 of the Receivables Financing Agreement. Under no circumstances shall any Originator (or any Affiliate thereof (other than the Buyer)) have any reimbursement or recourse obligations in respect of any Letter of Credit.

(b) In the event that an Originator requests that any purchases be paid for by the issuance of a Letter of Credit hereunder, such Originator shall on a timely basis provide the Buyer with such information as is necessary for the Buyer to obtain such Letter of Credit from the LC Bank.

(c) Each Originator agrees to be bound by the terms of each LC Request referenced in the Receivables Financing Agreement and by the LC Bank's interpretations of any Letter of Credit issued for the Buyer and by the LC Bank's written regulations and customary practices relating to

letters of credit. Each Originator further agrees to be bound by the terms of each applicable Letter of Credit Application referenced in the Receivables Financing Agreement and that each Letter of Credit shall be subject either to the Uniform Customs and Practice for Documentary Credits (2007 Revision), International Chamber of Commerce Publication No. 600, and any amendments or revisions thereof adhered to by the LC Bank or the International Standby Practices (ISP98-International Chamber of Commerce Publication Number 590), and any amendments or revisions thereof adhered to by the LC Bank, as determined by the LC Bank, in each case subject to the terms and conditions set forth in the Receivables Financing Agreement.

(d) Each Originator appoints the Servicer as its agent (on which appointment the Buyer, the Administrative Agent and the LC Bank may rely until such Originator provides contrary written notice to all of such Persons) to act on such Originator's behalf to take all actions and to make all decisions in respect of the issuance, amendment and administration of the Letters of Credit, including requests for the issuance and extension of Letters of Credit and the allocation of the stated amounts of Letters of Credit against the Purchase Price owed to particular Originators. In the event that the Servicer requests a Letter of Credit hereunder, the Servicer shall on a timely basis provide the Buyer with such information as is necessary for the Buyer to obtain such Letter of Credit from the LC Bank, and shall notify the relevant Originators, the Buyer and the Administrative Agent of the allocations described in the preceding sentence. Such allocations shall be binding on the Buyer and each Originator, absent manifest error.

SECTION 3. ADMINISTRATION AND COLLECTION.

Section 3.1. Davey Tree to Act as Servicer. Pursuant to the Receivables Financing Agreement, Davey Tree has been appointed as the initial servicer (in such capacity, the "Servicer") for the administration and servicing of all Receivables sold to the Buyer hereunder and subsequently pledged under the Receivables Financing Agreement to the Administrative Agent. Pursuant to the Receivables Financing Agreement, Davey Tree has agreed to assume the duties and the administration and servicing obligations of the Receivables as Servicer, and perform all necessary and appropriate commercial collection activities in arranging the timely payment of amounts due and owing by any Obligor with respect to Receivables all in accordance with the terms set forth in the Receivables Financing Agreement; *provided, however*, that such appointment as Servicer shall not release any Originator from any of its respective duties, responsibilities, liabilities and obligations resulting from or arising hereunder. The Servicer may be removed in accordance with the provisions of the Receivables Financing Agreement.

Section 3.2. Repurchase; Adjustments to Purchase Price. If on any day:

(i) the Outstanding Balance of any Purchased Receivable is reduced or cancelled as a result of any defective, returned or rejected goods or services, any cash discount or any other adjustment by the applicable Originator or any Affiliate thereof, or as a result of any governmental or regulatory action, or

(ii) the Outstanding Balance of any Purchased Receivable is reduced or cancelled as a result of a setoff in respect of any claim by the Obligor thereof (whether such claim arises out of the same or a related or an unrelated transaction), or

(iii) the Outstanding Balance of any Purchased Receivable is reduced on account of the obligation of the applicable Originator to pay to the related Obligor any rebate or refund, or

(iv) the Outstanding Balance of any Purchased Receivable is less than the amount specified as the outstanding principal balance for such Purchased Receivable in any report delivered by an Originator to the Buyer (for any reason other than receipt of Collections or such Receivable becoming a Defaulted Receivable), or

(v) the Outstanding Balance of any Purchased Receivable is reduced or cancelled (for any reason other than the financial inability or refusal of the Obligor to pay undisputed indebtedness or receipt of Collections or such Receivable becoming a Defaulted Receivable), or

(vi) any of the representations or warranties of the applicable Originator set forth in Section 4.1(m) (Accuracy of Information), Section 4.1(o) (Perfection Representations), Section 4.1(p) (Collections), Section 4.1(v) (Compliance with Credit and Collection Policy), Section 4.1(w) (Payments to Originator), Section 4.1(x) (Enforceability of Contracts), Section 4.1(y) (Accounting) or Section 4.1(z) (Collection Accounts) were not true with respect to any Purchased Receivable when conveyed hereunder,

then, the Buyer shall be entitled to a credit against the Purchase Price otherwise payable to such Originator hereunder on such day in an amount equal to (A) in the case of clauses (i), (ii), (iii), and (v) above, such reduction or cancellation, (B) in the case of clause (iv) above, the amount specified as the outstanding principal balance for such Purchased Receivable in the relevant report delivered by an Originator to the Buyer *minus* the Outstanding Balance of such Purchased Receivable; and (C) in the case of clause (vi) above, in the amount of the Outstanding Balance of such Purchased Receivable. If such credit to the Purchase Price exceeds the Purchase Price for the Receivables sold by such Originator on such date or if the Buyer is required to make any payment pursuant to the terms of the Receivables Financing Agreement and does not have sufficient funds to do so, then such Originator shall pay the full or remaining amount of such credit, as applicable, by making a deposit in the Collection Account specified by the Buyer, in immediately available funds, within two (2) Business Days after such Originator has received notice from the Administrative Agent or such Originator has knowledge of such event; *provided, however*, that if no such payment is permitted or required under the Receivables Financing Agreement, the Buyer and the applicable Originator may agree to reduce the outstanding principal amount of the applicable Subordinated Note in lieu of all or part of such transfer. Any payment of the Outstanding Balance as contemplated by clause (C) above shall be considered a repurchase of such Receivable by the applicable Originator and the Buyer shall transfer any interest it has in such Receivable to the applicable Originator free and clear of any Adverse Claims arising by, through or under the Buyer.

Similarly, if an adjustment is made by an Originator to a Purchased Receivable after its conveyance to the Buyer hereunder that results in an increase in the Outstanding Balance of such Receivable, such Originator shall be deemed to have increased the principal amount under the applicable Subordinated Note (not to exceed the Maximum Subordinated Note Balance).

Section 3.3. Application of Collections. Any payment made by an Obligor that is not specified by such Obligor to relate to a particular invoice or other obligation of such Obligor shall, unless otherwise required by the related contracts or law, be applied, *first*, as a Collection of any Receivable or Receivables then outstanding of such Obligor in the order of the age of such Receivables, starting with the oldest of such Receivables, and, *second*, to any other indebtedness of such Obligor to the applicable Originator.

Section 3.4. Responsibilities of each Originator. Each Originator shall perform all of its obligations under the Contracts related to the Receivables to the same extent as if interests in the Receivables had not been transferred hereunder. The Administrative Agent's, Buyer's or any Secured Party's exercise of any rights hereunder or under the Receivables Financing Agreement shall not relieve any Originator from such obligations. Neither the Administrative Agent, the Buyer, nor any Secured Party shall have any obligation to perform any obligation of an Originator in connection with the Receivables.

SECTION 4. REPRESENTATIONS AND WARRANTIES.

Section 4.1. Representations and Warranties of each Originator. Each Originator hereby represents and warrants to the Buyer, as to itself, as of the date hereof and as of the date of each sale or contribution, as applicable, of Receivables hereunder that:

(a) *Organization and Good Standing.* Such Originator is the type of organization as set forth on Exhibit B of this Agreement and is validly existing in good standing under the laws of the State of such Originator's organization as set forth on Exhibit B and has the power and authority under its organizational documents and the laws of its jurisdiction of organization to own its properties and to conduct its business as such properties are currently owned and such business is presently conducted.

(b) *Due Qualification.* Such Originator is duly qualified to do business, is in good standing as a foreign entity and has obtained all necessary licenses and approvals in all jurisdictions in which the conduct of its business requires such qualification, licenses or approvals, except where the failure to do so could not reasonably be expected to have a Material Adverse Effect.

(c) *Power and Authority; Due Authorization.* Such Originator (i) has all necessary power and authority to (A) execute and deliver this Agreement and the other Transaction Documents to which it is a party, (B) perform its obligations under this Agreement and the other Transaction Documents to which it is a party and (C) sell, transfer or otherwise convey the Purchased Receivables to the Buyer on the terms and subject to the conditions herein provided and (ii) has duly authorized by all necessary action such sale,

transfer or conveyance by such Originator and the execution, delivery and performance by such Originator of, and the consummation of the transactions provided for in, this Agreement and the other Transaction Documents to which it is a party.

(d) *Binding Obligations.* This Agreement and each of the other Transaction Documents to which such Originator is a party constitutes legal, valid and binding obligations of such Originator, enforceable against such Originator in accordance with their respective terms, except (i) as such enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting the enforcement of creditors' rights generally and (ii) as such enforceability may be limited by general principles of equity, regardless of whether such enforceability is considered in a proceeding in equity or at law.

(e) *No Violation.* The execution, delivery and performance by such Originator of, and the consummation of the transactions contemplated by, this Agreement and the other Transaction Documents to which such Originator is a party, and the fulfillment of the terms hereof and thereof by such Originator, will not (i) result in any breach of any of the terms or provisions of, or constitute (with or without notice or lapse of time or both) a default under its organizational documents or any material indenture, sale agreement, credit agreement, loan agreement, security agreement, mortgage, deed of trust, or other material agreement or instrument to which such Originator is a party or by which it or any of its properties is bound, (ii) result in the creation or imposition of any Adverse Claim upon any of the Sold Assets pursuant to the terms of any such material indenture, credit agreement, loan agreement, security agreement, mortgage, deed of trust, or other material agreement or instrument other than this Agreement and the other Transaction Documents or (iii) violate any Applicable Law, except to the extent that any such conflict, breach, default, Adverse Claim or violation could not reasonably be expected to have a Material Adverse Effect.

(f) *Litigation and Other Proceedings.* (i) There is no action, suit, proceeding or investigation pending or, to the best knowledge of such Originator, threatened, against such Originator before any Governmental Authority and (ii) such Originator is not subject to any order, judgment, decree, injunction, stipulation or consent order of or with any Governmental Authority that, in the case of either of the foregoing clauses (i) and (ii), (A) asserts the invalidity of this Agreement or any other Transaction Document, (B) seeks to prevent the sale of the Purchased Receivables or the other Sold Assets by such Originator to the Buyer, the ownership or acquisition by the Buyer of any Purchased Receivables or other Sold Assets or the consummation of any of the transactions contemplated by this Agreement, the Receivables Financing Agreement or any other Transaction Document, (C) seeks any determination or ruling that could materially and adversely affect the performance by such Originator of its obligations under, or the validity or enforceability of, this Agreement or any other Transaction Document or (D) individually or in the aggregate for all such actions, suits, proceedings and investigations could reasonably be expected to have a Material Adverse Effect.

(g) *Governmental Approvals.* Except where the failure to obtain or make such authorization, consent, order, approval or action could not reasonably be expected to have a Material Adverse Effect and for the filing of financing statements necessary to perfect the ownership interests in the Purchased Receivables created pursuant to this Agreement, all authorizations, consents, orders and approvals of, or other actions by, any Governmental Authority that are required to be obtained by such Originator in connection with the sale of the Purchased Receivables and the other Sold Assets to the Buyer hereunder or the due execution, delivery and performance by such Originator of this Agreement or any other Transaction Document to which it is a party and the consummation by such Originator of the transactions contemplated by this Agreement and the other Transaction Documents to which it is a party have been obtained or made and are in full force and effect.

(h) *Margin Regulations.* Such Originator is not engaged, principally or as one of its important activities, in the business of extending credit for the purpose of purchasing or carrying margin stock (within the meanings of Regulations T, U and X of the Board of Governors of the Federal Reserve System).

(i) *Taxes.* Such Originator has filed or caused to be filed all material Tax returns and reports required by Applicable Law to have been filed by it and has paid or caused to be paid all material Taxes, assessments and governmental charges thereby shown to be owing by it, other than any such Taxes, assessments or charges that are being contested in good faith by appropriate proceedings and for which appropriate reserves in accordance with GAAP have been established.

(j) *Solvency.* After giving effect to the transactions contemplated by this Agreement and the other Transaction Documents to which such Originator is a party, the Originator is Solvent.

(k) *Offices; Legal Name.* Such Originator's sole jurisdiction of organization is set forth on Exhibit B hereof and such jurisdiction has not changed within four (4) months prior to the date of this Agreement or the execution of the related Joinder Agreement, as applicable. The office of such Originator is located at the applicable address specified on Exhibit B. The legal name of such Originator is set forth on Exhibit B.

(l) *Investment Company Act.* Such Originator is not, and is not controlled by, an "investment company" registered or required to be registered under the Investment Company Act.

(m) *Accuracy of Information.* All certificates, reports, written statements, documents and other written information (if prepared by the Originator or one of its Affiliates, or to the extent that the information contained therein is supplied by the Originator or an Affiliate of the Originator) furnished to the Buyer by or on behalf of any Originator pursuant to any provision of this Agreement, or in connection with or pursuant to any amendment or modification of, or waiver under, this Agreement is, at the time the same are so furnished, complete and correct in all material respects on the date the same are furnished to the Buyer

and does not contain any material misstatement of fact or omit to state a material fact necessary to make the statements contained therein, in the light of the circumstances under which they were made, not misleading.

(n) *No Sanctions.* Such Originator is not a Sanctioned Person. To such Originator's knowledge, no Obligor was a Sanctioned Person at the time of origination of any Purchased Receivable owing by such Obligor. No Originator or Subsidiary of an Originator (i) has any of its assets in a Sanctioned Country or in the possession, custody or control of a Sanctioned Person in violation of any Anti-Terrorism Law; (ii) does business in or with, or derives any of its income from investments in or transactions with, any Sanctioned Country or Sanctioned Person in violation of any Anti-Terrorism Law; or (iii) engages in any dealings or transactions prohibited by any Anti-Terrorism Law.

(o) *Perfection Representations.* (i) When the Buyer makes a purchase of Receivables or accepts a contribution of Receivables hereunder, as applicable, it shall acquire valid and perfected first priority ownership of each Purchased Receivable and the Related Security, Sold Assets and Collections with respect thereto free and clear of any Adverse Claim (other than any Adverse Claim arising solely as a result of any action taken by the Buyer). This Agreement creates a valid and continuing security interest (as defined in the applicable UCC) in the applicable Originator's right, title and interest in, to and under the Sold Assets which (A) security interest has been perfected and is enforceable against creditors of and purchasers from such Originator and (B) will be free of all Adverse Claims in such Sold Assets.

(ii) The Receivables constitute "accounts" or "general intangibles" within the meaning of Section 9-102 of the UCC.

(iii) The applicable Originator owns and has good and marketable title (immediately prior to its sale or contribution hereunder) to the Sold Assets free and clear of any Adverse Claim of any Person.

(iv) All appropriate financing statements, financing statement amendments and continuation statements have been filed in the proper filing office in the appropriate jurisdictions under Applicable Law in order to perfect (and continue the perfection of) the sale (or, in the case of Davey Tree, contribution) of the Sold Assets from such Originator to the Buyer pursuant to this Agreement.

(v) Other than the backup security interest granted to the Buyer pursuant to Section 2.3 of this Agreement, such Originator has not pledged, assigned, sold, granted a security interest in, or otherwise conveyed any of the Sold Assets to any Person other than the Buyer, except as permitted by this Agreement and the other Transaction Documents. No Originator has authorized the filing of and no Originator is aware of any financing statements filed against such Originator that include a description of collateral covering the Sold Assets other than any financing statement (i) in favor of the Buyer, (ii) that has been terminated or

(iii) arising solely as a result of any action taken by the Buyer. Such Originator is unaware of any judgment lien, ERISA lien or tax lien filings against such Originator.

(p) *Collections.* The conditions and requirements set forth in Section 5.1(g) of this Agreement have at all times since the Closing Date, been satisfied and duly performed.

(q) *Compliance with Law.* Such Originator has complied in all material respects with all Applicable Laws to which it may be subject.

(r) *Bulk Sales Act.* No transaction contemplated by this Agreement requires compliance with any bulk sales act or similar law.

(s) *Opinions.* The facts regarding such Originator, the Receivables, the Related Security, Sold Assets and the related matters set forth or assumed in each of the opinions of counsel delivered in connection with this Agreement, the Receivables Financing Agreement and the other Transaction Documents are true and correct in all material respects.

(t) *Other Transaction Documents.* Each representation and warranty made by such Originator under each other Transaction Document to which it is a party is true and correct in all material respects when made, except for representations and warranties which apply as to an earlier date (in which case such representations and warranties shall be true and correct in all material respects as of such date).

(u) *Reaffirmation of Representations and Warranties.* On the date of each purchase of Receivables under this Agreement, such Originator shall be deemed to have certified that all representations and warranties of such Originator hereunder are true and correct in all material respects on and as of such day as though made on and as of such day, except for representations and warranties which apply as to an earlier date (in which case such representations and warranties shall be true and correct in all material respects as of such earlier date).

(v) *Compliance with Credit and Collection Policy.* Such Originator has complied in all material respects with the applicable Credit and Collection Policy with regard to each Purchased Receivable and the related Contract; provided that the failure to have collected any Purchased Receivable as a result of (x) the insolvency, bankruptcy or lack of creditworthiness of an Obligor or (y) an unjustified refusal of an Obligor to pay not due to any alleged or actual action or inaction of the Originator or any of its Affiliates shall not constitute a breach of this clause (v) so long as such Originator has otherwise complied with the applicable Credit and Collection Policy in respect of such Purchased Receivable. Such Originator has not made any material change to such Credit and Collection Policy, except such material change as to which the Buyer and the Administrative Agent have been notified in accordance with Section 5.1(c).

(w) *Payments to Originator.* With respect to each Purchased Receivable, the Buyer has given reasonably equivalent value to such Originator in consideration therefor and such transfer was not made for or on account of an antecedent debt. At the time of its sale or contribution hereunder, no transfer by such Originator of any Purchased Receivable is or may be voidable under any section of the Bankruptcy Reform Act of 1978 (11 U.S.C. §§ 101 *et seq.*), as amended.

(x) *Enforceability of Contracts.* Each Contract with respect to each Purchased Receivable of such Originator is effective to create, and has created, a legal, valid and binding obligation of the related Obligor to pay the Outstanding Balance of the Purchased Receivable created thereunder and any accrued interest thereon, enforceable against the Obligor in accordance with its terms, except as such enforcement may be limited by applicable bankruptcy, insolvency, reorganization or other similar laws relating to or limiting creditors' rights generally and by general principles of equity (regardless of whether enforcement is sought in a proceeding in equity or at law).

(y) *Accounting.* Such Originator will treat the transfer of the Purchased Receivables to the Buyer hereunder as an absolute conveyance and true sale on its books and records.

(z) *Collection Accounts.* The banks, account names and account numbers for all existing Lock-Boxes and Collection Accounts are correctly listed on Exhibit D. Each of the Collection Accounts has been transferred into Buyer's name. Such Originator has not granted any Person, other than Buyer (and the Administrative Agent, as its pledgee) dominion and control of any Lock-Box or Collection Account, or the right to take dominion and control of any such account at a future time or upon the occurrence of a future event.

Notwithstanding any other provision of this Agreement, the Receivables Financing Agreement or any other Transaction Document, the representations and warranties contained in this Section 4.1 shall be continuing, and remain in full force and effect until the Final Payout Date.

SECTION 5. GENERAL COVENANTS.

Section 5.1. Affirmative Covenants of each Originator. At all times from the Closing Date until the Final Payout Date, each Originator hereby covenants as set forth below:

(a) *Existence.* Such Originator shall keep in full force and effect its existence and rights as an organization (as set forth on Exhibit B) under the laws of its state of organization as set forth on Exhibit B, and shall obtain and preserve its qualification to do business in each jurisdiction in which such qualification is or shall be necessary to protect the validity and enforceability of this Agreement, the other Transaction Documents and the Sold Assets.

(b) *Financial Reporting.* Such Originator will maintain a system of accounting established and administered in accordance with GAAP, and shall furnish to the Buyer, the Servicer, the Administrative Agent and the LC Bank the following:

(i) *Information.* Such information (including non-financial information) as the Buyer, the Servicer, the Administrative Agent and LC Bank may from time to time reasonably request.

(ii) *Quarterly Financial Statements of Davey Tree.* As soon as available and in no event later than fifty (50) days following the end of each of the first three (3) fiscal quarters in each of Davey Tree's fiscal years, the unaudited consolidated balance sheet and statements of income of Davey Tree and its consolidated Subsidiaries as at the end of such fiscal quarter and the related unaudited consolidated statements of earnings and cash flows for such fiscal quarter and for the elapsed portion of the fiscal year ended with the last day of such fiscal quarter, in each case setting forth comparative figures for the corresponding fiscal quarter in the prior fiscal year, all of which shall be certified by a Financial Officer of Davey Tree that they fairly present in all material respects, in accordance with GAAP, the financial condition of Davey Tree and its consolidated Subsidiaries as of the dates indicated and the results of their operations for the periods indicated, subject to normal year-end audit adjustments and the absence of footnotes.

(iii) *Annual Financial Statements of Davey Tree.* Within one hundred (100) days after the close of each of Davey Tree's fiscal years, the consolidated balance sheet of Davey Tree and its consolidated Subsidiaries as at the end of such fiscal year and the related consolidated statements of earnings and cash flows for such fiscal year setting forth comparative figures for the preceding fiscal year, all reported on by independent certified public accountants of recognized national standing (without a "going concern" or like qualification or exception) to the effect that such consolidated financial statements present fairly in all material respects, in accordance with GAAP, the financial condition of Davey Tree and its consolidated Subsidiaries as of the dates indicated and the results of their operations for the periods indicated.

(iv) *Other Reports and Filings.* Promptly (but in any event within ten (10) days) after the filing or delivery thereof, copies of all financial information, proxy materials and reports, if any, which Davey Tree or any of its consolidated Subsidiaries shall publicly file with the SEC or deliver to holders (or any trustee, agent or other representative therefor) of any of its material Debt pursuant to the terms of the documentation governing the same.

Notwithstanding anything herein to the contrary, any financial information, proxy statements or other material required to be delivered pursuant to this paragraph (b) shall be deemed to have been furnished to each of the Administrative Agent and

the LC Bank on the date that such report, proxy statements or other material is posted on the SEC's website at www.sec.gov.

(c) *Notices.* Such Originator will notify the Buyer, the Administrative Agent and the LC Bank in writing of any of the following events promptly upon (but in no event later than two (2) Business Days after (except with respect to clause (v) below) a Financial Officer or other officer learning of the occurrence thereof, with such notice describing the same, and if applicable, the steps taken or being taken by the Person(s) affected with respect thereto:

(i) *Representations and Warranties.* The failure of any representation or warranty made or deemed to be made by such Originator under this Agreement or any other Transaction Document to be true and correct in any material respect when made or deemed made.

(ii) *Litigation.* The institution of any litigation, arbitration proceeding or governmental proceeding against such Originator that, if adversely determined, could reasonably be expected to have a Material Adverse Effect.

(iii) *Adverse Claim.* (A) Any Person (other than the Buyer or its assigns) shall obtain an Adverse Claim upon the Sold Assets or any material portion thereof, (B) any Person other than the Buyer, the Servicer or the Administrative Agent shall obtain any rights or direct any action with respect to any Collection Account (or related Lock-Box) or (C) any Obligor shall receive any change in payment instructions with respect to the Purchased Receivable(s) from a Person other than the Buyer, the Originators on behalf of the Buyer, the Servicer or the Administrative Agent.

(iv) *Name Changes.* At least thirty (30) days before any change in such Originator's name, jurisdiction of organization or any other change requiring the amendment of, or the filing of new, UCC financing statements, a notice setting forth such changes and the effective date thereof.

(vi) *Change in Accountants or Accounting Policy.* Any change in (i) the external accountants of such Originator or (ii) any accounting policy of such Originator that is relevant to the transactions contemplated by this Agreement or any other Transaction Document (it being understood that any change to the manner in which any Originator accounts for the Purchased Receivables shall be deemed "material" for such purpose).

(vii) *Material Adverse Change.* Promptly after the occurrence thereof, notice of any material adverse change in the business, operations, property or financial or other condition of such Originator.

(viii) *Change in Credit and Collection Policy.* At least ten (10) Business Days prior to the effectiveness of any material change in or material amendment to any Credit and Collection Policy of such Originator, a copy of such Credit and Collection Policy then in effect and a notice (A) indicating such change or amendment, and (B) requesting the Buyer's, the Administrative Agent's and the LC Bank's written consent thereto, which consent shall not be unreasonably withheld, conditioned or delayed.

(d) *Conduct of Business.* Such Originator will carry on and conduct its business in substantially the same manner and in substantially the same fields of enterprise as it is presently conducted and will do all things necessary to remain duly incorporated, validly existing and in good standing as a domestic corporation in its jurisdiction of incorporation and maintain all requisite authority to conduct its business in each jurisdiction in which its business is conducted, except where the failure to maintain such authority could not reasonably be expected to have a Material Adverse Effect.

(e) *Compliance with Laws.* Such Originator will comply with all Applicable Laws to which it may be subject if the failure to comply could reasonably be expected to have a Material Adverse Effect.

(f) *Furnishing of Information and Inspection of Purchased Receivables.* Such Originator will furnish or cause to be furnished to the Buyer, the Servicer, the Administrative Agent and the LC Bank from time to time such information with respect to the Purchased Receivables and the other Sold Assets as the Buyer, the Administrative Agent and the LC Bank or the LC Bank may reasonably request. Such Originator will, at such Originator's expense, during regular business hours with reasonable prior written notice (i) permit the Buyer, the Servicer, the Administrative Agent and the LC Bank or their respective agents or representatives to (A) examine and make copies of and abstracts from all books and records relating to the Purchased Receivables or other Sold Assets, (B) visit the offices and properties of such Originator for the purpose of examining such books and records and (C) discuss matters relating to the Purchased Receivables, the other Sold Assets or such Originator's performance hereunder or under the other Transaction Documents to which it is a party with any of the officers, directors, employees or independent public accountants of such Originator (provided, that representatives of such Originator are present during such discussions) having knowledge of such matters and (ii) without limiting the provisions of clause (i) above, during regular business hours, at such Originator's expense, upon reasonable prior written notice from the Buyer, the Servicer, the Administrative Agent, permit certified public accountants or other auditors acceptable to the Administrative Agent to conduct a review of its books and records with respect to the Purchased Receivables and other Sold Assets; *provided*, that such Originator shall be required to reimburse the Administrative Agent for only one (1) such review pursuant to clauses (i) and (ii) above in any twelve-month period, unless an Event of Default has occurred and is continuing under the Receivables Financing Agreement.

(g) *Payments on Receivables, Collection Accounts.* The Originator will, at all times, instruct all Obligor to deliver payments on the Purchased Receivables to a Collection Account or a Lock-Box unless otherwise instructed by the Buyer or the Administrative Agent. Each Originator will, at all times, maintain such books and records necessary to identify Collections received from time to time on Purchased Receivables and to segregate such Collections from other property of such Originator. If any payments on the Purchased Receivables or other Collections are received by such Originator, it shall hold such payments in trust for the benefit of the Buyer and its assigns and promptly (but in any event within one (1) Business Day after receipt) remit such funds into a Collection Account. Such Originator shall not commingle Collections or other funds to which the Buyer or its assigns are entitled, with any other funds. Upon receipt from any Collection Account Bank of notice that such Collection Account Bank is terminating or intends to terminate any Account Control Agreement, each Originator will, at all times, instruct all Obligor to deliver payments on the Purchased Receivables to a different Collection Account or a Lock-Box that is subject to an Account Control Agreement that has not been terminated (or that the applicable Collection Account Bank does not intend to terminate).

(h) *Extension or Amendment of Purchased Receivables; Compliance with Credit and Collection Policy.* Such Originator shall, at its expense, timely and fully perform and comply with all provisions, covenants and other promises required to be observed by it under the Contracts related to the Purchased Receivables, and timely and fully comply with the Credit and Collection Policy with regard to each Purchased Receivable and the related Contract.

(i) *Identifying of Records.* Such Originator shall identify (or cause the Servicer to identify) its master data processing records relating to Purchased Receivables and related Contracts with a legend that indicates that the Purchased Receivables have been sold in accordance with this Agreement.

(j) *Ownership.* Such Originator will take all necessary action to establish and maintain, irrevocably in the Buyer (i) legal and equitable title to the Purchased Receivables and the Collections thereof and (ii) all of such Originator's right, title and interest in the other Sold Assets associated with the Purchased Receivables, in each case, free and clear of any Adverse Claims, other than Adverse Claims in favor of or created by the Buyer and the Administrative Agent, for the benefit of the Secured Parties (including, without limitation, the filing of all financing statements or other similar instruments or documents necessary under the UCC (or any comparable law) of all appropriate jurisdictions to perfect the Buyer's ownership interest and the Administrative Agent's (for the benefit of the Secured Parties) security interest in the Sold Assets and such other action to perfect, protect or more fully evidence the interest of the Buyer and the Administrative Agent for the benefit of the Secured Parties as the Buyer or the Administrative Agent may reasonably request); *provided, however,* that unless and until an Event of Default has occurred and is continuing, such Originator shall not be required to take any actions to establish, maintain or perfect the Buyer's ownership interest in the Related Security other than the filing of financing statements under the UCC of all appropriate jurisdictions.

(k) *Further Assurances; Change in Name or Jurisdiction of Origination, etc.*

(i) Such Originator hereby authorizes and hereby agrees from time to time, at its own expense, promptly to execute (if necessary) and deliver all further instruments and documents, and to take all further actions, that may be necessary or desirable, or that the Buyer or its assigns may reasonably request, to perfect, protect or more fully evidence the ownership interest or backup security interest granted pursuant to this Agreement or any other Transaction Document, or to enable the Buyer or its assigns to exercise and enforce their respective rights and remedies under this Agreement and the other Transaction Documents to which such Originator is a party. Without limiting the foregoing, such Originator hereby authorizes, and will, upon the reasonable request of the Buyer or its assigns, at such Originator's own expense, execute (if necessary) and file such financing statements or continuation statements, or amendments thereto, and such other instruments and documents, that may be necessary or desirable, or that the Buyer or its assigns may reasonably request, to perfect, protect or evidence any of the foregoing.

(ii) Such Originator authorizes the Buyer or its assigns to file financing statements, continuation statements and amendments thereto and assignments thereof, relating to the Sold Assets without the signature of the Buyer. A photocopy or other reproduction of this Agreement shall be sufficient as a financing statement where permitted by law.

(iii) Such Originator shall at all times be organized under the laws of the State of its respective organization as set forth on Exhibit B and shall not take any action to change its jurisdiction of organization.

(iv) Such Originator will not change its name, location, identity or corporate structure unless (x) such Originator, at its own expense, shall have taken all action necessary or appropriate to perfect or maintain the perfection of the ownership interest and backup security interest contemplated by this Agreement (including, without limitation, the filing of all financing statements and the taking of such other action as the Buyer or its assigns may reasonably request in connection with such change or relocation) and (y) if reasonably requested by the Buyer or its assigns, such Originator shall cause to be delivered to the Buyer or its assigns, an opinion, in form and substance reasonably satisfactory to the Buyer or its assigns as to such UCC perfection and priority matters as the Buyer or its assigns may request at such time.

(l) *LC Bank's Reliance.* Such Originator acknowledges that the Administrative Agent and the LC Bank are entering into the transactions contemplated by the Receivables Financing Agreement in reliance upon the Buyer's identity as a legal entity that is separate from the Originators and any Affiliates thereof. Therefore, from and after the date of execution and delivery of this Agreement, such Originator will take all reasonable steps including, without limitation, all steps that the Buyer or any assignee of the Buyer may from time to time reasonably request to maintain the Buyer's identity as a separate legal entity and to make it manifest to third parties that the Buyer is an entity with assets and liabilities distinct from those of the Originator and every other Person and is not just a division of

such Originator or any of its Affiliates or any other Person. Without limiting the generality of the foregoing and in addition to the other covenants set forth herein, such Originator will take such actions as shall be required in order to ensure that the Buyer is in compliance with each of the covenants and agreements set forth in Section 8.03 of the Receivables Financing Agreement.

(m) *Taxes.* Each Originator has (i) timely filed or caused to be filed all tax returns (federal, state and local) required to be filed by it and (ii) paid, or caused to be paid, all taxes, assessments and other governmental charges, if any, other than (a) taxes, assessments and other governmental charges being contested in good faith by appropriate proceedings, (b) as to which adequate reserves have been provided in accordance with GAAP or (c) to the extent that failure to do so could not reasonably be expected to result in a Material Adverse Effect.

Section 5.2. Negative Covenants of the Originators. Until the date on which the Borrower Obligations have been indefeasibly paid in full under the Receivables Financing Agreement and this Agreement terminates in accordance with its terms, each Originator hereby covenants that:

(a) *Certain Agreements.* Other than in connection with the Final Payout Date, without the prior written consent of the Buyer, the Administrative Agent and the LC Bank, such Originator will not amend, modify, waive, revoke or terminate any Transaction Document to which it is a party.

(b) *Sales, Liens, etc.* Except as otherwise provided herein, such Originator will not sell, assign (by operation of law or otherwise) or otherwise dispose of, or create or suffer to exist any Adverse Claim upon (including, without limitation, the filing of any financing statement) or with respect to, any Purchased Receivable or other Sold Assets, or assign any right to receive income in respect thereof, and such Originator will defend the right, title and interest of the Buyer and its assigns in, to and under any of the foregoing property, against all claims of third parties claiming through or under such Originator.

(c) *Change in Credit and Collection Policy.* Such Originator will not make any material change in the Credit and Collection Policy without the prior written consent of the Buyer, the Administrative Agent and the LC Bank, which consent shall not be unreasonably withheld, conditioned or delayed. Promptly following any change in the Credit and Collection Policy, such Originator will deliver a copy of the updated Credit and Collection Policy to the Buyer, the Administrative Agent and the LC Bank.

(d) *Fundamental Changes.* Such Originator shall not, without the prior written consent of the Buyer, the Administrative Agent and the LC Bank, permit itself to merge or consolidate with or into, except where such Originator is the surviving entity, or convey, transfer, lease or otherwise dispose of (whether in one transaction or in a series of transactions) all or substantially all of its assets (whether now owned or hereafter acquired) to, any Person.

(e) *Change in Payment Instructions to Obligors.* Such Originator shall not add, replace or terminate any Collection Account (or any related Lock - Box) or make any change in its instructions to the Obligors regarding payments to be made to the Collection Accounts (or any related Lock - Box), other than any instruction to remit payments to a different Collection Account (or any related Lock - Box), unless the Administrative Agent shall have received (i) prior written notice of such addition, termination or change and (ii) signed and acknowledged Account Control Agreements (or an amendment thereto) with respect to such new Collection Accounts (or any related Lock - Box) and the Administrative Agent shall have consented to such change in writing, which consent shall not be unreasonably withheld, conditioned or delayed.

(f) *Anti-Money Laundering/International Trade Law Compliance.* The Originator will not become a Sanctioned Person. Neither such Originator nor any of its Subsidiaries, either in its own right or through any third party, will (i) have any of its assets in a Sanctioned Country or in the possession, custody or control of a Sanctioned Person in violation of any Anti-Terrorism Law; (ii) do business in or with, or derive any of its income from investments in or transactions with, any Sanctioned Country or Sanctioned Person in violation of any Anti-Terrorism Law; (iii) engage in any dealings or transactions prohibited by any Anti-Terrorism Law or (iv) use the proceeds of any Sold Assets to fund any operations in, finance any investments or activities in, or, make any payments to, a Sanctioned Country or Sanctioned Person in violation of any Anti-Terrorism Law. Such Originator shall comply with all Anti-Terrorism Laws applicable to it. Such Originator shall promptly notify the Buyer, the Administrative Agent and the LC Bank and their respective assigns in writing upon the occurrence of a Reportable Compliance Event.

(g) *Accounting for Purchase.* Such Originator will not, and will not permit any Affiliate to, account for or treat (whether in financial statements or otherwise) the transactions contemplated hereby in any manner other than the sale or other conveyance of the Receivables, Related Security and Sold Assets by such Originator to the Buyer or in any other respect account for or treat the transactions contemplated hereby in any manner other than as a sale or other conveyance of the Receivables and the Related Security by such Originator to the Buyer except to the extent that such transactions are not recognized on account of consolidated financial reporting in accordance with generally accepted accounting principles.

SECTION 6. TERMINATION OF PURCHASES.

Section 6.1. Voluntary Termination. The purchase and sale of Receivables pursuant to this Agreement may be terminated by Davey Tree or the Buyer, upon at least five (5) Business Days' prior written notice to the other party.

Section 6.2. Automatic Termination. The purchase and sale of Receivables pursuant to this Agreement shall automatically terminate upon the occurrence of an Insolvency Proceeding with respect to any Originator.

SECTION 7. INDEMNIFICATION.

Section 7.1. Originators' Indemnity. Without limiting any other rights the Buyer and its assigns, officers, managers, agents and employees may have hereunder or under applicable law, each Originator hereby indemnifies and holds harmless the Buyer and its assigns and its officers, managers, agents and employees (each an "Indemnified Party") from and against any and all damages, losses, claims, liabilities, costs and expenses and for all other amounts payable (including reasonable attorneys' fees and court costs actually incurred) (all of the foregoing collectively, the "Indemnified Losses") at any time imposed on or incurred by any Indemnified Party arising out of or otherwise resulting from this Agreement, the transactions contemplated hereby, or any action taken or omitted by any of the Indemnified Parties, whether arising by reason of the acts to be performed by the Originators hereunder or otherwise, excluding only Indemnified Losses ("Excluded Losses") to the extent (a) a final non-appealable judgment of a court of competent jurisdiction holds that such Indemnified Losses resulted solely from gross negligence or willful misconduct on the part of the Indemnified Party seeking indemnification or a material breach by such Indemnified Party (unless the applicable Indemnified Party that is negligent or breaches its obligations is an Affiliate of the Originator) of its obligations under any Transaction Document; (b) the same includes losses (including diminution in value) in respect of Purchased Receivables that are uncollectible on account of the insolvency, bankruptcy or lack of creditworthiness of the related Obligor or otherwise related to an Obligor's failure to pay in accordance with the related Receivables (other than any loss based on (x) (1) a failure to pay as a result of any failure by any Originator to comply with any terms of the related Contract, (2) the unenforceability of the Receivable or the related Contract in accordance with their respective terms, or (3) the failure of any Originator to comply with applicable law or regulation with respect to the Receivable or the related Contract or (y) a breach of a representation or warranty that any such Receivable was an Eligible Receivable when sold by such Originator hereunder (if so represented at such time), each of which shall be an Indemnified Loss hereunder); or (c) such Indemnified Losses include taxes imposed by the United States, the Indemnified Party's jurisdiction of organization (or in the case of an individual, his or her jurisdiction of primary residence) or any other jurisdiction in which such Indemnified Party has established a taxable nexus other than in connection with the transactions contemplated hereby, on or measured by the overall net income or gross receipts of such Indemnified Party to the extent that the computation of such taxes is consistent with the characterization for tax purposes of the acquisition by the Buyer of an ownership interest in the Sold Assets. Without limiting the foregoing indemnification, but subject to the limitations set forth in clauses (a), (b) and (c) of the previous sentence, each Originator shall indemnify each Indemnified Party for Indemnified Losses arising out of or resulting from:

- (i) any representation or warranty made by or on behalf of such Originator (or any officers of the Originator) under or in connection with this Agreement, any Transaction Document to which such Originator is a party or any other information or report delivered by such Originator (in its capacity as an originator of Purchased Receivables) pursuant to the Transaction Documents, which shall have been false or incorrect in any material respect when made or deemed made;

(ii) the failure by such Originator to comply with any applicable law, rule or regulation with respect to any Receivable or Contract related thereto, or the nonconformity of any Receivable or any Contract related thereto with any such applicable law, rule or regulation or any failure of such Originator to keep or perform any of its obligations, express or implied, with respect to any Contract;

(iii) the failure of such Originator to vest and maintain vested in the Buyer, a perfected ownership or security interest, as applicable, in the Purchased Receivables and the other property conveyed pursuant hereto, free and clear of any Adverse Claim;

(iv) any commingling of funds to which the Buyer is entitled hereunder with any other funds;

(v) any dispute, claim, offset or defense (other than (x) any stay, discharge, plan of reorganization or order in a bankruptcy case of the Obligor as debtor, (y) financial inability of the Obligor to pay, or (z) an unjustified failure of the Obligor to pay not due to any alleged or actual action or inaction of the Originator or any of its Affiliates) of the Obligor to the payment of any Receivable (including, without limitation, a defense based on such Receivable or the related Contract not being a legal, valid and binding obligation of such Obligor enforceable against it in accordance with its terms, except as such enforcement may be limited by applicable bankruptcy, insolvency, reorganization or other similar laws relating to or limiting creditors' rights generally and by general principles of equity regardless of whether enforcement is sought in a proceeding in equity or at law), or any other claim resulting from the service related to such Receivable or the furnishing or failure to furnish such services or other similar claim or defense not arising from the financial inability of any Obligor to pay undisputed indebtedness;

(vi) any failure of such Originator to perform its duties or obligations in accordance with the provisions of this Agreement;

(vii) any environmental liability claim, products liability claim or personal injury or property damage suit or other similar or related claim or action of whatever sort, arising out of or in connection with any Receivable or any Contract or any other suit, claim or action of whatever sort relating to any of such Originator's obligations under the Transaction Documents;

(viii) any investigation, litigation or proceeding arising from this Agreement or any other Transaction Document to which such Originator is a party, the transactions contemplated hereby, or any other investigation, litigation or proceeding relating to such Originator in which the Buyer becomes involved as a result of any of the transactions contemplated hereby;

(ix) any inability to litigate any claim against any Obligor in respect of any Receivable as a result of such Obligor being immune from civil and commercial law and suit on the grounds of sovereignty or otherwise from any legal action, suit or proceeding;

- (x) any Insolvency Proceeding with respect to such Originator;
- (xi) any attempt by any Person (other than an Indemnified Party) to void the transfers contemplated hereby under statutory provisions or common law or equitable action (except as created by the Transaction Documents);
- (xii) any action or omission by such Originator that reduces or impairs the rights of the Buyer with respect to any Receivables or Related Security or the value of any Receivables or Related Security; or
- (xiii) any provision in any Contract that either (i) permits or provides for any reduction in the Outstanding Balance of the Receivable created under such Contract and any accrued interest thereon or (ii) could otherwise materially hinder the ability to receive Collections with respect to such Receivable.

Section 7.2. Indemnification Due to Failure to Consummate Purchase. Each Originator will indemnify the Buyer on demand and hold it harmless against all costs (including, without limitation, breakage costs) and expenses incurred by the Buyer resulting from any failure by such Originator to consummate a purchase as contemplated hereunder after the Buyer has provided an LC Request under the terms of the Receivables Financing Agreement in order to fund such purchase.

Section 7.3. Other Costs. If the Buyer becomes obligated to compensate the LC Bank under the Receivables Financing Agreement or any other Transaction Document for any costs or indemnities pursuant to any provision of the Receivables Financing Agreement or any other Transaction Document as a result of any action or inaction of the Originator, then such Originator shall, on demand, reimburse the Buyer for the amount of any such compensation. Anything herein to the contrary notwithstanding, in no event shall any Originator be required to reimburse the Buyer for the costs of collecting on Purchased Receivables.

SECTION 8. MISCELLANEOUS.

Section 8.1. Amendments, Waivers, etc. No amendment of this Agreement or waiver of any provision hereof or consent to any departure by either party therefrom shall be effective without the written consent of the party that is sought to be bound. Any such waiver or consent shall be effective only in the specific instance given. No failure or delay on the part of either party to exercise, and no delay in exercising, any right hereunder shall operate as a waiver thereof; nor shall any single or partial exercise of any right hereunder preclude any other or further exercise thereof or the exercise of any other right. The remedies herein provided are cumulative and not exclusive of any remedies provided by law. Each Originator agrees that the Administrative Agent and the LC Bank may rely upon the terms of this Agreement, and that the terms of this Agreement may not be amended, nor any material waiver of those terms be granted, without the consent of the Administrative Agent to the extent required under the Transaction Documents; *provided* that the applicable Originator and the Buyer may agree to an adjustment of the purchase price for any Receivable without the consent of the Administrative Agent provided that the purchase price paid for any Receivable shall be an amount not less than adequate consideration that represents fair value for such Receivable.

Section 8.2 Protection of Ownership Interests of the Buyer. (a) Each Originator agrees that from time to time, at its expense, it will promptly execute and deliver all instruments and documents, and take all actions, that may be necessary or desirable, or that the Buyer or the Administrative Agent may reasonably request, to perfect, protect or more fully evidence the interest of the Buyer (or the Administrative Agent, as its assignee) hereunder, or to enable the Buyer (or the Administrative Agent, as its assignee) to exercise and enforce its rights and remedies hereunder. At any time after the occurrence of an Event of Default, the Administrative Agent may, at the Originators' sole cost and expense, direct the Originators to notify the Obligors of the ownership interest of the Buyer and the security interest of the Administrative Agent, on behalf of the LC Bank, under the Receivables Financing Agreement.

(b) If any Originator fails to perform any of its obligations hereunder, the Buyer and the Administrative Agent may (but shall not be required to) perform, or cause performance of, such obligations, and the Buyer's or the Administrative Agent's (as applicable) costs and expenses incurred in connection therewith shall be payable by the Originators as provided in Section 8.7. Each Originator irrevocably authorizes the Buyer and the Administrative Agent at any time and from time to time in their sole discretion, and appoints each of the Buyer and the Administrative Agent as its attorney-in-fact, to act on behalf of such Originator (i) to authorize and/or execute on behalf of such Originator as debtor and to file financing statements necessary or desirable in the Buyer's or the Administrative Agent's sole discretion to perfect and to maintain the perfection and priority of the interest of the Buyer in the Purchased Receivables and (ii) to file a carbon, photographic or other reproduction of this Agreement or any financing statement with respect to the Purchased Receivables as a financing statement in such jurisdictions and in such offices as the Buyer or the Administrative Agent in their sole discretion deem necessary or desirable to perfect and to maintain the perfection and priority of the Buyer's interests in the Purchased Receivables. This appointment is coupled with an interest and is irrevocable.

Section 8.3. Assignment of Agreement. Each Originator hereby acknowledges that on the date hereof, the Buyer has collaterally assigned for security purposes all of its right, title and interest in, to and under this Agreement to the Administrative Agent for the benefit of the LC Bank pursuant to the Receivables Financing Agreement and that the Administrative Agent and the LC Bank are third party beneficiaries hereof. Each Originator hereby further acknowledges that after the occurrence and during the continuation of an Event of Default (as defined in the Receivables Financing Agreement) all provisions of this Agreement shall inure to the benefit of the Administrative Agent and the LC Bank, including the enforcement of any provision hereof to the extent set forth in the Receivables Financing Agreement, but that neither the Administrative Agent nor the LC Bank shall have any obligations or duties under this Agreement. Each Originator hereby further acknowledges that the execution and performance of this Agreement are conditions precedent for the Administrative Agent and the LC Bank to enter into the Receivables Financing Agreement and that the agreement of the Administrative Agent and the LC Bank to enter into the Receivables Financing Agreement will directly or indirectly benefit the Originators and constitutes good and

valuable consideration for the rights and remedies of the Administrative Agent and the LC Bank with respect hereto.

Section 8.4. Limitation of Liability. Except with respect to any claim arising out of the willful misconduct or gross negligence of the Buyer or the Administrative Agent, no claim may be made by any Originator or any other Person against the Buyer or the Administrative Agent or any of their respective Affiliates, directors, officers, employees, attorneys or agents for any special, indirect, consequential or punitive damages in respect of any claim for breach of contract or any other theory of liability arising out of or related to the transactions contemplated by this Agreement, or any act, omission or event occurring in connection therewith; and each Originator hereby waives, releases, and agrees not to sue upon any claim for any such damages, whether or not accrued and whether or not known or suspected to exist in its favor.

Section 8.5. Binding Effect; Assignment. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns and shall also, to the extent provided herein, inure to the benefit of the parties to the Receivables Financing Agreement. Each Originator acknowledges that the Buyer's rights under this Agreement are being assigned to the Administrative Agent under the Receivables Financing Agreement and consents to such assignment and to the exercise of those rights directly by the Administrative Agent, to the extent permitted by the Receivables Financing Agreement.

Section 8.6. Survival. The rights and remedies with respect to any breach of any representation and warranty made by any Originator or the Buyer pursuant to Section 4 and the indemnification provisions of Section 7 shall survive any termination of this Agreement.

Section 8.7. Costs, Expenses and Taxes. In addition to the obligations of the Originators under Section 7, each party hereto agrees to pay on demand all costs and expenses incurred by the other party and its assigns (other than Excluded Losses) in connection with the enforcement of, or any actual or claimed breach of, this Agreement, including the reasonable fees and expenses of counsel to any of such Persons incurred in connection with any of the foregoing or in advising such Persons as to their respective rights and remedies under this Agreement in connection with any of the foregoing. Each Originator also agrees to pay on demand all stamp and other taxes and fees payable or determined to be payable in connection with the execution, delivery, filing, and recording of this Agreement.

Section 8.8. Execution in Counterparts; Integration. This Agreement may be executed in any number of counterparts and by different parties hereto in separate counterparts, each of which when so executed shall be deemed to be an original and all of which when taken together shall constitute one and the same Agreement. To the fullest extent permitted by applicable law, delivery of an executed counterpart of a signature page of this Agreement by telefacsimile or electronic image scan transmission (such as a "pdf" file) will be effective to the same extent as delivery of a manually executed original counterpart of this Agreement. Any party who delivers an executed counterpart of this Agreement by telefacsimile or other electronic method of transmission also shall deliver an original executed counterpart of this Agreement, but the failure to deliver an original executed counterpart shall not affect the validity, enforceability, and binding effect of this

Agreement. This Agreement and each other Transaction Document contain the final and complete integration of all prior expressions by the parties hereto with respect to the subject matter hereof and shall constitute the entire agreement among the parties hereto with respect to the subject matter hereof superseding all prior oral or written understandings.

Section 8.9. Severability; Section References. Any provisions of this Agreement which are prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction. Unless otherwise expressly indicated, all references herein to "Article," "Section," or "Exhibit" shall mean articles and sections of, and schedules and exhibits to, this Agreement.

Section 8.10. GOVERNING LAW. THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAW OF THE STATE OF NEW YORK (WITHOUT GIVING EFFECT TO THE CONFLICT OF LAWS PRINCIPLES THEREOF OTHER THAN SECTIONS 5-1401 AND 5-1402 OF THE NEW YORK GENERAL OBLIGATIONS LAW WHICH SHALL APPLY HERETO) EXCEPT TO THE EXTENT THAT THE PERFECTION OF THE BUYER'S OWNERSHIP INTEREST IN THE RECEIVABLES, RELATED SECURITY AND OTHER ASSETS CONVEYED HEREUNDER OR REMEDIES IN RESPECT THEREOF ARE GOVERNED BY THE LAWS OF A JURISDICTION OTHER THAN THE STATE OF NEW YORK.

Section 8.11 Consent to Jurisdiction. EACH ORIGINATOR HEREBY IRREVOCABLY SUBMITS TO THE NON-EXCLUSIVE JURISDICTION OF ANY UNITED STATES FEDERAL OR STATE COURT SITTING IN THE BOROUGH OF MANHATTAN, NEW YORK, IN ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY DOCUMENT EXECUTED BY SUCH ORIGINATOR PURSUANT TO THIS AGREEMENT, AND EACH ORIGINATOR HEREBY IRREVOCABLY AGREES THAT ALL CLAIMS IN RESPECT OF SUCH ACTION OR PROCEEDING MAY BE HEARD AND DETERMINED IN ANY SUCH COURT AND IRREVOCABLY WAIVES ANY OBJECTION IT MAY NOW OR HEREAFTER HAVE AS TO THE VENUE OF ANY SUCH SUIT, ACTION OR PROCEEDING BROUGHT IN SUCH A COURT OR THAT SUCH COURT IS AN INCONVENIENT FORUM. NOTHING HEREIN SHALL LIMIT THE RIGHT OF THE BUYER OR THE ADMINISTRATIVE AGENT (AS ITS ULTIMATE ASSIGNEE) TO BRING PROCEEDINGS AGAINST ANY ORIGINATOR IN THE COURTS OF ANY OTHER JURISDICTION. ANY JUDICIAL PROCEEDING BY SUCH ORIGINATOR AGAINST THE BUYER OR ITS ASSIGNS INVOLVING, DIRECTLY OR INDIRECTLY, ANY MATTER IN ANY WAY ARISING OUT OF, RELATED TO, OR CONNECTED WITH THIS AGREEMENT OR ANY DOCUMENT EXECUTED BY SUCH ORIGINATOR PURSUANT TO THIS AGREEMENT SHALL BE BROUGHT ONLY IN A COURT IN THE BOROUGH OF MANHATTAN, NEW YORK.

Section 8.12 Waiver of Jury Trial. EACH PARTY HERETO HEREBY WAIVES TRIAL BY JURY IN ANY JUDICIAL PROCEEDING INVOLVING, DIRECTLY OR INDIRECTLY, ANY MATTER (WHETHER SOUNDING IN TORT, CONTRACT OR OTHERWISE) IN ANY WAY ARISING OUT OF, RELATED TO, OR CONNECTED WITH THIS AGREEMENT, ANY

DOCUMENT EXECUTED BY ANY ORIGINATOR PURSUANT TO THIS AGREEMENT OR THE RELATIONSHIP ESTABLISHED HEREUNDER OR THEREUNDER.

Section 8.13. No Proceedings. Each Originator agrees, for the benefit of the parties to the Receivables Financing Agreement, that it will not institute against the Buyer, or join any other Person in instituting against the Buyer, any Insolvency Proceeding until one year and one day after no investment, loan or commitment is outstanding under the Receivables Financing Agreement. In addition, all amounts payable by the Buyer to any Originator pursuant to this Agreement shall be payable solely from funds available for that purpose (after Buyer has satisfied all obligations then due and owing under the Receivables Financing Agreement).

Section 8.14. Notices. Unless otherwise specified, all notices and other communications hereunder shall be in writing (including by telecopier or other facsimile communication), given to the appropriate Person at its address or telecopy number set forth at the following addresses:

If to Buyer:	Davey Receivables LLC 1500 N. Mantua Street Kent, Ohio 44240 Attention: General Counsel of The Davey Tree Expert Company Telecopier No.: 330-552-2680 Telephone No.: 330-673-9515 ext. 8320
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If to the Originators:	The Davey Tree Expert Company 1500 N. Mantua Street Kent, Ohio 44240 Attention: General Counsel Telecopier No.: 330-552-2680 Telephone No.: 330-673-9515 ext. 8320
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Section 8.15. Entire Agreement. This Agreement constitutes the entire understanding of the parties thereto concerning the subject matter thereof. Any previous or contemporaneous agreements, whether written or oral, concerning such matters are superseded thereby.

Section 8.16. Addition of New Originators. From time to time upon not less than sixty (60) days' (or such shorter period of time as the Buyer and its assigns may agree upon) prior written notice to the Buyer and Administrative Agent as its assignee, the Buyer may agree that one or more existing or hereafter acquired wholly-owned Subsidiaries of an Originator may become an Originator hereunder. No such addition shall become effective without the written consent of the Buyer and the Administrative Agent, which consent shall not be unreasonably withheld, conditioned or delayed. Prior to the effectiveness of any new Originator's becoming an Originator hereunder, such Originator shall execute a Joinder Agreement and deliver such updated Exhibits hereto as may be necessary to ensure that after giving effect to the addition of such new Originator, each of the representations and warranties of such new Originator under Section 4 hereof will be true and correct.

Section 8.17. Power of Attorney. Each of the Originators hereby irrevocably designate and appoint the Buyer (including, without limitation, its successors and assigns) as such Originator's true and lawful attorney-in-fact and authorizes the Buyer (including its successors and assigns), in each of the Originator's or the Administrative Agent's name, to: (a) at any time an Event of Default exists or has occurred and is continuing enforce all rights and remedies of the applicable Originator with respect to the Purchased Receivables purchased hereunder and the Related Security and do all other acts and things which are necessary, in the Buyer's (including its successors and assigns) determination, to fulfill such Originator's obligations under this Agreement and the other Transaction Documents to which such Originator is a party and (b) at any time to (i) take control in any manner of any item of payment in respect of Purchased Receivables or any Related Security or otherwise received in or for deposit in a Lock-Box, Collection Account or otherwise received by the Administrative Agent or any other Secured Party, (ii) have access to any Lock-Box or Collection Account into which remittances from Obligor in respect of Purchased Receivables or other proceeds of the Purchased Receivables and the Related Security are sent or received, (iii) endorse an Originator's name upon any items of payment in respect of Purchased Receivables or Related Security or otherwise received by the Buyer, the Administrative Agent and any Secured Party (as applicable), (iv) endorse an Originator's name upon any chattel paper, document, instrument, Invoice, or similar document or agreement relating to any Purchased Receivable or any goods pertaining thereto or any Related Security including any warehouse or other receipts, or bills of lading and other negotiable or non-negotiable documents, and (v) sign an Originator's name on any verification of Purchased Receivables and notices thereof to account debtors or any secondary obligors or other obligors in respect thereof. The Originators hereby release the Buyer (including its successors and assigns) and its respective officers, employees and designees from any liabilities arising from any act or acts under this power of attorney and in furtherance thereof, whether of omission or commission, except as a result of the Buyer's (or its successors and assigns), own gross negligence or willful misconduct as determined pursuant to a final non-appealable order of a court of competent jurisdiction.

[SIGNATURE PAGE TO FOLLOW]

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their respective officers thereunto duly authorized, as of the date first above written.

"ORIGINATORS"

THE DAVEY TREE EXPERT COMPANY, as
Originator

By: /s/Christopher J. Bast
Name: Christopher J. Bast, CPA, CTP
Title: Treasurer

DAVEY TREE SURGERY COMPANY, as
Originator

By: /s/Christopher J. Bast
Name: Christopher J. Bast, CPA, CTP
Title: Treasurer

"BUYER"

DAVEY RECEIVABLES LLC, as Buyer

By: /s/Christopher J. Bast
Name: Christopher J. Bast, CPA, CTP
Title: Treasurer

EXHIBIT A

FORM OF SUBORDINATED NOTE

May 9, 2016

FOR VALUE RECEIVED, the undersigned, DAVEY RECEIVABLES LLC, an Ohio limited liability company (the “Buyer”), promises to pay to [NAME OF ORIGINATOR], a _____ (the “Originator”), on the terms and subject to the conditions set forth herein and in the Purchase Agreement referred to below, the principal sum of the aggregate unpaid purchase price of all Receivables purchased from time to time by the Buyer from the Originator pursuant to such Purchase Agreement, as such unpaid purchase price is shown in the records of the Originator.

1. *Purchase Agreement.* This promissory note (this “Subordinated Note”) is a Subordinated Note described in, and is subject to the terms and conditions set forth in, that certain Receivables Purchase Agreement dated as of the date hereof (as the same may be amended or otherwise modified from time to time, the “Purchase Agreement”), by and among the Originator and each other originator of Receivables from time to time party thereto and the Buyer. Reference is hereby made to the Purchase Agreement for a statement of certain other rights and obligations of the Originators and the Buyer.

2. *Definitions.* Capitalized terms used (but not defined) herein have the meanings assigned thereto in the Purchase Agreement dated as of the date hereof. In addition, as used herein, the following terms have the following meanings:

“Bankruptcy Proceedings” has the meaning set forth in clause (b) of paragraph 9 hereof.

“Final Maturity Date” means the forty-fifth (45th) day following the Final Payout Date.

“Final Payout Date” means the date on which all amounts payable to the Administrative Agent and the LC Bank under the Receivables Financing Agreement have been paid in full and the Commitments thereunder have been terminated.

“Interest Period” means the period from and including a Settlement Date (or, in the case of the first Interest Period, the date hereof) to but excluding the next Settlement Date.

“Senior Interest” means collectively, (i) the obligation of the Buyer and the Servicer to set aside, and to turn over, Collections and other proceeds of the Receivables and any other collateral pledged to the Administrative Agent for the benefit of the LC Bank pursuant to the Receivables Financing Agreement and (ii) all other obligations of the Buyer that are

due and payable to any Senior Interest Holders under the Receivables Financing Agreement, together with all interest accruing on any such amounts after the commencement of any Bankruptcy Proceedings (as defined herein), notwithstanding any provision or rule of law that might restrict the rights of any Senior Interest Holder, as against the Buyer or anyone else, to collect such interest.

“Senior Interest Holders” means collectively, the LC Bank, the Administrative Agent and the Buyer Indemnified Parties (as defined in Section 13.01 of the Receivables Financing Agreement).

3. *Interest.* Subject to the provisions set forth below, the Buyer promises to pay interest on the outstanding unpaid principal amount of this Subordinated Note from the date hereof until payment in full at a rate equal to 7.5% per annum; provided, however, that if the Buyer shall default in the payment of any principal hereof, the Buyer promises to pay, on demand, interest at the rate of 9.5% per annum on any such unpaid amounts, from the date such payment is due to the date of actual payment.

4. *Interest Payment Dates.* Subject to the provisions set forth below, the Buyer shall pay accrued interest on this Subordinated Note on each Settlement Date, and shall pay accrued interest on the amount of each principal payment made in cash on a date other than a Settlement Date at the time of such principal payment.

5. *Basis of Computation.* Interest accrued hereunder shall be computed for the actual number of days elapsed on the basis of a 360-day year and actual days elapsed.

6. *Principal Payment Dates.* Subject to the provisions set forth below, payments of the principal amount of this Subordinated Note shall be made as follows:

(a) The principal amount of this Subordinated Note shall be reduced from time to time pursuant to Section 2.2 of the Purchase Agreement;

(b) The entire remaining outstanding balance of this Subordinated Note shall be paid on the Final Maturity Date.

Subject to the provisions set forth below, the principal amount of and accrued interest on this Subordinated Note may be prepaid on any Business Day without premium or penalty.

7. *Payments.* All payments of principal and interest hereunder are to be made in lawful money of the United States of America.

8. *Enforcement Expenses.* In addition to and not in limitation of the foregoing, but subject to the provisions set forth below and to any limitation imposed by applicable law, the Buyer agrees to pay all expenses, including reasonable attorneys’ fees and legal expenses, incurred by the Originator in seeking to collect any amounts payable hereunder which are not paid when due.

9. *Provisions Regarding Restrictions on Payment.* The Buyer covenants and agrees, and the Originator, by its acceptance of this Subordinated Note, likewise covenants and agrees on behalf of itself and any holder of this Subordinated Note, that the payment of the principal amount of, and interest on, this Subordinated Note is hereby expressly subject to certain restrictions set forth in the following clauses of this paragraph 9:

(a) No payment or other distribution of the Buyer's assets of any kind or character, whether in cash, securities, or other rights or property, shall be made on account of this Subordinated Note except to the extent such payment or other distribution is permitted under the Purchase Agreement and the Receivables Financing Agreement;

(b) In the event of any dissolution, winding up, liquidation, readjustment, reorganization or other similar event relating to the Buyer, whether voluntary or involuntary, partial or complete, and whether in bankruptcy, insolvency or receivership proceedings, or upon an assignment for the benefit of creditors, or any other marshalling of the assets and liabilities of the Buyer or any sale of all or substantially all of the assets of the Buyer (such proceedings being herein collectively called “Bankruptcy Proceedings”), the Senior Interests shall first be paid and performed in full and in cash before the Originator shall be entitled to receive and to retain any payment or distribution in respect to this Subordinated Note. In order to implement the foregoing, the Originator hereby irrevocably agrees that the Administrative Agent, in the name of the Originator or otherwise, may demand, sue for, collect, receive and receipt for any and all such payments or distributions, and the file, prove and vote or consent in any such Bankruptcy Proceedings with respect to any and all claims of the Originator relating to this Subordinated Note, in each case until the Senior Interests shall have been paid and performed in full and in cash;

(c) In the event that the Originator receives any payment or other distribution of any kind or character from the Buyer or from other source whatsoever, in respect of this Subordinated Note, other than as expressly permitted by the terms of this Subordinated Note, such payment or other distribution shall be received for the sole benefit of the Senior Interest Holders and shall be turned over by the Originator to the Administrative Agent (for the benefit of the Senior Interest Holders) forthwith;

(d) Notwithstanding any payments or distributions received by the Senior Interest Holders in respect of this Subordinated Note, while any Bankruptcy Proceedings are pending the Originator shall not be subrogated to the then existing rights of the Senior Interest Holders in respect of the Senior Interests until the Senior Interests have been paid and performed in full and in cash. Upon the occurrence of the Final Payout Date, the Originator shall be subrogated to the then existing rights of the Senior Interest Holders, if any;

(e) The provisions set forth in this Section 9 are intended solely for the purpose of defining the relative rights of the Originator, on the one hand, and the Senior Interest Holders on the other hand. Nothing contained in this Subordinated Note is intended to or shall impair, as between the Buyer, its creditors (other than the Senior Interest Holders) and

the Originator, the Buyer's obligation, which is unconditional and absolute, to pay the Originator the principal of and interest on this Subordinated Note as and when the same shall become due and payable in accordance with the terms hereof or to affect then relative rights of the Originator and creditors of the Buyer (other than the Senior Interest Holders)

(f) The Originator shall not, until the Senior Interests have been paid and performed in full and in cash, transfer, pledge or assign, or commence legal proceedings to enforce or collect this Subordinated Note or any rights in respect hereof;

(g) The Originator shall not, without the advance written consent of the Administrative Agent, commence, or join with any other Person in commencing, any Bankruptcy Proceedings with respect to the Buyer until at least one year and one day shall have passed since the Final Payout Date shall have occurred;

(h) If, at any time, any payment (in whole or in part) of any Senior Interest is rescinded or must be restored or returned by a Senior Interest Holder (whether in connection with Bankruptcy Proceedings or otherwise), these provisions shall continue to be effective or shall be reinstated, as the case may be, as though such payment had not been made;

(i) The Originator hereby waives; (i) notice of acceptance of these provisions by any of the Senior Interest Holders; (ii) notice of the existence, creation, non-payment or non-performance of all or any of the Senior Interests; and (iii) all diligence in enforcement, collection or protection of, or realization upon, the Senior Interests, or any thereof, or any security therefor;

(j) These provisions constitute a continuing offer from the holder of this Subordinated Note to all Persons who become the holders of, or who continue to hold, Senior Interests; and these provisions are made for the benefit of the Senior Interest Holders, and the Administrative Agent or the LC Bank may proceed to enforce such provisions on behalf of each of such Persons.

10. *General.* (a) No failure or delay on the part of the Originator in exercising any power or right hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any such power of right preclude any other or further exercise thereof or the exercise of any other power or right. No amendment, modification or waiver of, or consent with respect to, any provision of this Subordinated Note shall in any event be effective unless (i) the same shall be in writing and signed and delivered by the Buyer and the Originator and (ii) all consent required for such actions under the Transaction Documents shall have been received by the appropriate Persons.

(b) The Originator hereby agrees that it will not exercise any right of set-off or recoupment, or assert any counterclaim, against the Buyer except as may be otherwise permitted under the Purchase Agreement, so long as there shall not have elapsed one year and one day since the Final Payout Date has occurred.

(c) The Originator expressly recognizes and agrees that the obligations represented by this Subordinated Note are not secured by any interest in any of the assets of the Buyer, including, without limitation, any Receivables or Related Security.

11. *No Negotiation.* This Subordinated Note is not negotiable. Any purported sale, transfer, assignment or negotiation of this Subordinated Note shall be void without the prior written consent of PNC Bank, National Association, as Administrative Agent.

12. *Governing Law.* THIS PROMISSORY NOTE SHALL BE DEEMED TO BE A CONTRACT MADE UNDER AND GOVERNED BY THE LAWS OF THE STATE OF NEW YORK.

13. *Captions.* Paragraph captions used in this Subordinated Note are for convenience only and shall not affect the meaning or interpretation of any provision of this Subordinated Note.

[SIGNATURE PAGE FOLLOWS]

EXECUTED as of the date set forth on the first page of this Subordinated Note.

DAVEY RECEIVABLES LLC

By: _____
Name: _____
Title: _____

EXHIBIT B

JURISDICTION OF ORGANIZATION OF THE ORIGINATORS; PLACES OF BUSINESS OF THE ORIGINATORS; LOCATIONS OF RECORDS; FEDERAL EMPLOYER IDENTIFICATION NUMBER(S)

The Davey Tree Expert Company

Jurisdiction of Organization: Ohio

Organization Number (if any): 24861

Principal Place(s) of Business: 1500 N. Mantua St., Kent, Ohio 44240

Location(s) of Records: 1500 N. Mantua St., Kent, Ohio 44240

Federal Employer Identification Number: 34-0176110

Legal, Trade and Assumed Names: The Davey Tree Expert Company

Davey Tree Surgery Company

Jurisdiction of Organization: Ohio

Organization Number (if any): 383813

Principal Place(s) of Business: 1500 N. Mantua St., Kent, Ohio 44240

Location(s) of Records: 1500 N. Mantua St., Kent, Ohio 44240

Federal Employer Identification Number: 94-1693162

Legal, Trade and Assumed Names: Davey Tree Surgery Company

EXHIBIT C

FORM OF JOINDER AGREEMENT

_____, 20__

THIS JOINDER AGREEMENT is executed and delivered by _____, a _____ (“New Originator”) in favor of Davey Receivables LLC, an Ohio limited liability company (the “Buyer”), with respect to that certain Receivables Purchase Agreement dated as of May 9, 2016 by and among The Davey Tree Expert Company, an Ohio corporation and Davey Tree Surgery Company, an Ohio corporation, as Originators, and the Buyer (as amended, supplemented, joined, restated or otherwise modified from time to time, the “Purchase Agreement”). Capitalized terms used and not otherwise defined herein are used with the meanings attributed thereto in the Purchase Agreement.

Subject to receipt of counterparts hereof signed by the signatories below, by its signature below, New Originator hereby absolutely and unconditionally agrees to become a party to the Purchase Agreement as an Originator thereunder and to be bound by the provisions thereof including, without limitation, the provisions of Section 8.11 thereof.

Attached hereto is an amended and restated version of Exhibit B [**and Exhibit D**] to the Purchase Agreement. After giving effect to the amendments and restatements embodied therein, each of the representations and warranties contained in Section 4 of the Purchase Agreement will be true and correct as to New Originator.

The provisions of Section 7 of the Purchase Agreement are incorporated in this Joinder Agreement by this reference with the same force and effect as if set forth in full herein except that references in such Section 7 to “this Agreement” shall be deemed to refer to “this Joinder Agreement and to the Purchase Agreement as modified by this Joinder Agreement.”

Please acknowledge your consent to New Originator’s joinder in the Purchase Agreement by signing the enclosed copy hereof in the appropriate space provided below and sending a copy of such counterpart to (a) Buyer, at fax no. (330) 552-2680, Attention: General Counsel of The Davey Tree Expert Company, (b) New Originator at the fax no. set forth below its signature hereto, and (c) if the Receivables Financing Agreement remains in effect, Administrative Agent, at fax no. (412) 705-1225, Attention: Asset Backed Finance.

IN WITNESS WHEREOF, New Originator has executed this Joinder Agreement as of the date first written above.

[NEW ORIGINATOR]

By: _____
Name: _____
Title: _____

Please fax executed counterparts of this Joinder Agreement to _____ at FAX No. (____) _____

Each of the undersigned hereby consents to New Originator's joinder in the Purchase Agreement:

DAVEY RECEIVABLES LLC, as Buyer

By: THE DAVEY TREE EXPERT COMPANY, its sole member

By: _____
Name: _____
Title: _____

PNC BANK, NATIONAL ASSOCIATIONS, as Administrative Agent

By: _____
Name: _____
Title: _____

EXHIBIT D

LOCK-BOXES, COLLECTION ACCOUNTS AND COLLECTION ACCOUNT BANKS

LOCKBOXES	
KeyBank National Association	#94532
KeyBank National Association	#92934

COLLECTION ACCOUNT	
KeyBank National Association	#526248

EXHIBIT E

EXCLUDED RECEIVABLES

Any Receivable originated by Davey Tree Surgery Company.