

**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): July 5, 2018

**WORKHORSE GROUP INC.**

(Exact name of registrant as specified in its charter)

Nevada	000-53704	26-1394771
(State or Other Jurisdiction of Incorporation)	(Commission File Number)	(IRS Employer Identification Number)

100 Commerce Drive, Loveland, Ohio 45140  
(Address of principal executive offices) (zip code)

513-297-3640  
(Registrant's telephone number, including area code)

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 (see General Instruction A.2. below):

- 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))

Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 or Rule 12b-2 of the Securities Exchange Act of 1934.

Emerging growth company

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act.

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**Item 1.01 Entry into a Material Definitive Agreement.**

**Item 2.02 Results of Operations and Financial Condition.**

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

**Item 3.02 Unregistered Sales of Equity Securities.**

On July 6, 2018, Workhorse Group Inc. (the “Company”), as borrower, entered into a Loan Agreement with a fund managed by Arosa Capital Management LP (“Arosa”), as lender, providing for a term loan (the “Arosa Loan”) in the principal amount of \$6,100,000 (the “Loan Agreement”). The maturity date of the Arosa Loan is July 6, 2019 (the “Maturity Date”). The interest rate for the Arosa Loan is 8% per annum payable in quarterly installments commencing October 6, 2018. The Company may prepay the Arosa Loan at anytime upon three days written notice.

The Loan Agreement requires the Company to pay Arosa’s expenses including attorney fees. The Loan Agreement also requires the Company to make certain representations and warranties and other agreements that are customary in loan agreements of this type including a covenant to raise \$10,000,000 in equity prior to September 30, 2018 and to consummate a sale of Surefly, Inc., the Company’s indirect wholly-owned subsidiary resulting in cash proceeds of no less than \$20,000,000. The Loan Agreement also contains customary events of default, including non-payment of principal or interest, violations of covenants, bankruptcy and material judgments. The Company, the Company’s subsidiaries and Arosa also entered into a Guarantee and Collateral Agreement and Intellectual Property Security Agreement providing that the Company’s obligations to Arosa are secured by substantially all of the Company’s assets. In addition, the Company is required to appoint to the Board of Directors a person designated in writing by Arosa for a period of no less than 12 months.

The Company used the proceeds from the Arosa Loan to satisfy the Senior Secured Loans initially issued December 27, 2017 in the amount of \$5,750,000 and a loan in the amount of \$350,000 payable to the former owner of the Company’s facility based in Loveland, Ohio.

In accordance with the Loan Agreement, the Company issued Arosa a Warrant to Purchase 5,000,358 shares of common stock of the Company at an exercise price of \$2.00 per share exercisable in cash only for a period of five years. While the Arosa Loan remains outstanding, the Company will be required to issue additional Warrants to Purchase Common Stock to Arosa equal to 10% of any additional issuance excluding issuances under an approved stock plan. The additional Warrants to Purchase Common Stock will have an exercise price equal to the lesser of \$2.00 or a 5% premium to the price utilized in such financing. Pursuant to the Warrant, Arosa may not exercise such Warrant if such exercise would result in Arosa beneficially owning in excess of 9.99% of the Company’s then issued and outstanding common stock.

Separately, on July 5, 2018, the Company received a short-term loan in the aggregate principal amount of \$500,000 from accredited investors (collectively, the “Loan Parties”). To evidence the loans, the Company issued the Loan Parties promissory notes (the “Loan Parties Notes”) in the aggregate principal amount of \$500,000. The Loan Parties Notes are unsecured obligations of the Company and are not convertible into equity securities of the Company. Principal and interest under the Loan Parties Notes is due and payable January 5, 2019, however, in the event that the Company raises in excess of \$10,000,000 in equity or debt financing, then the Company will use part of its proceeds to pay off the Loan Parties Notes. Interest accrues on the Loan Parties Notes at the rate of 12.0% per annum. The Loan Parties Notes contain terms and events of default customary for similar transactions. The Company is using the net proceeds from the transaction for general business and working capital purposes.

Separately, as of March 31, 2018, the Company’s cash balance was \$753,563. In order to satisfy the Company monthly cash requirements, on April 26, 2018, the Company entered into and closed Subscription Agreements with accredited investors pursuant to which such investors purchased 531,066 shares of the Company’s common stock for a purchase price of \$1,444,500. In addition, on June 7, 2018 and July 5, 2018, the Company received short-term loans in the amount of \$550,000 and \$500,000, respectively. As of July 9, 2018, the Company’s cash balance was \$581,574. The Company’s revenue for the three and six months ended June 30, 2018 was approximately \$167,000 and \$725,000, respectively. The Company will seek to raise equity and/or debt capital in the future, if available. There is no guarantee that the Company will be successful in such efforts.

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The description of the terms and conditions of the agreements above do not purport to be complete and are qualified in their entirety by the full text of the form of the agreements described above, which are filed as exhibits to this Form 8-K.

**Item 9.01 Financial Statements and Exhibits.**

(d) Exhibits.

<b>Exhibit Number</b>	<b>Description</b>
4.1	Form of Warrant to Purchase Common Stock issued to a fund managed by Arosa Capital Management LP dated July 6, 2018 *
<a href="#">4.2</a>	<a href="#">Form of Promissory Note dated July 5, 2018</a>
<a href="#">10.1</a>	<a href="#">Loan Agreement between Workhorse Group Inc. and a fund managed by Arosa Capital Management LP dated July 6, 2018</a>
<a href="#">10.2</a>	<a href="#">Guarantee and Collateral Agreement between Workhorse Group Inc., Workhorse Technologies Inc., Workhorse Properties Inc., Workhorse Motor Works Inc., Surefly, Inc. and a fund managed by Arosa Capital Management LP dated July 6, 2018</a>
<a href="#">10.3</a>	<a href="#">Intellectual Property Security Agreement between Workhorse Group Inc., Workhorse Technologies Inc., Workhorse Properties Inc., Workhorse Motor Works Inc., Surefly, Inc. and a fund managed by Arosa Capital Management LP dated July 6, 2018</a>

\* To be filed by amendment.

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**SIGNATURES**

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.

**WORKHORSE GROUP INC.**

Date: July 10, 2018

By: /s/ Paul Gaitan

Name: Paul Gaitan

Title: Chief Financial Officer

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**THIS NOTE HAS NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR ANY STATE SECURITIES LAW, AND IT MAY NOT BE SOLD OR OTHERWISE TRANSFERRED IN THE ABSENCE OF AN EFFECTIVE REGISTRATION STATEMENT UNDER SAID ACT OR STATE LAW OR AN EXEMPTION FROM SUCH REGISTRATION REQUIREMENTS; AND THE COMPANY MAY REQUIRE AN OPINION OF COUNSEL AS TO THE AVAILABILITY OF SUCH EXEMPTION.**

**WORKHORSE GROUP INC.**

**PROMISSORY NOTE**

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Loveland, Ohio  
Date: July 5, 2018

Workhorse Group Inc., a Nevada corporation (the “Maker”), for value received, hereby promises to pay to [\*] or registered assigns (the “Holder”), the principal sum of [\*]00/XX (\$[\*],000) Dollars in such coin or currency of the United States of America as at the time of payment shall be legal tender for the payment of public and private debts. Maker further promises to pay interest on the unpaid principal balance hereof at the rate of twelve percent (12%) per annum. Principal and interest on the outstanding balance shall be paid on or prior to January 5, 2019 (the “Maturity Date”). Interest shall be calculated on the basis of a 360 day year and actual days elapsed. In no event shall the interest charged hereunder exceed the maximum permitted under the laws of the State of Ohio. In the event that the Maker raises in excess of Ten Million (\$10,000,000) dollars in equity or debt financing, then the Maker will use part of its proceeds to pay off this Note; provided, however, in no circumstances may this Note be paid off on or prior to the ninety-first (91<sup>st</sup>) day following the maturity date of the Senior Secured Notes issued by the Maker on December 27, 2017 in the principal aggregate amount of \$5,750,000 (the “Senior Secured Note Covenant”).

Subject to the Senior Secured Note Covenant, this Note can be prepaid in whole or in part at any time without the consent of the Holder provided that Maker shall pay all accrued interest on the principal so prepaid to date of such prepayment.

Subject to the Senior Secured Note Covenant, the entire unpaid principal balance of this Note and interest accrued with respect thereto shall be immediately due and payable upon the occurrence of any of the following (each, an “Event of Default”):

- a. Application for, or consent to, the appointment of a receiver, trustee or liquidator for Maker or of its property;
- b. Admission in writing of the Maker’s inability to pay its debts as they mature;
- c. General assignment by the Maker for the benefit of creditors;

d. Filing by the Maker of a voluntary petition in bankruptcy or a petition or an answer seeking reorganization, or an arrangement with creditors; or

e. Entering against the Maker of a court order approving a petition filed against it under the federal bankruptcy laws, which order shall not have been vacated or set aside or otherwise terminated within 60 days.

f. Default in the payment of the principal or accrued interest on this Note, when and as the same shall become due and payable, whether by acceleration or otherwise;

g. Default in any covenant or obligation of Maker in favor of Holder arising pursuant to the agreement between Maker and Holder dated as of the date of this Note.

All rights and remedies available to the Holder pursuant to the provisions of applicable law and otherwise are cumulative, not exclusive and enforceable alternatively, successively and/or concurrently after default by Maker pursuant to the provisions of this Note.

The Maker waives demand, presentment, protest and notice of any kind and consents to the extension of time of payments, the release, surrender or substitution of any and all security or guarantees for the obligations evidenced hereby or other indulgence with respect to this Note, all without notice.

This Note may not be changed, modified or terminated orally, but only by an agreement in writing, signed by the party to be charged.

In the event of any litigation with respect to the obligations evidenced by this Note, the Maker waives the right to a trial by jury and all rights of set-off and rights to interpose permissive counterclaims and cross-claims. This Note shall be governed by and construed in accordance with the laws of the State of Ohio and shall be binding upon the successors, endorsees or assigns of the Maker and inure to the benefit of the Holder, its successors, endorsees and assigns.

The Maker hereby irrevocably consents to the jurisdiction of the courts of Hamilton County, in the State of Ohio and the United States District Court for the Southern District of Ohio in connection with any action or proceeding arising out of or relating to this Note. If any term or provision of this Note shall be held invalid, illegal or unenforceable, the validity of all other terms and provisions hereof shall in no way be affected thereby.

WORKHORSE GROUP INC.

By: \_\_\_\_\_

Name: Paul Gaitan

Title: Chief Financial Officer

## LOAN AGREEMENT

THIS LOAN AGREEMENT (this “**Agreement**”) dated as of July 6, 2018 (the “**Effective Date**”), between \_\_\_\_\_, a Cayman Islands exempted limited partnership (“**Lender**”), and **WORKHORSE GROUP INC.**, a Nevada corporation (“**Borrower**”), provides the terms on which Lender shall lend to Borrower and Borrower shall repay Lender. The parties agree as follows:

**1      ACCOUNTING AND OTHER TERMS**

Accounting terms not defined in this Agreement shall be construed following GAAP. Calculations and determinations must be made following GAAP. Capitalized terms not otherwise defined in this Agreement shall have the meanings set forth in Section 14. All other terms contained in this Agreement, unless otherwise indicated, shall have the meaning provided by the Code to the extent such terms are defined therein.

**2      LOAN AND TERMS OF PAYMENT**

**2.1      **Promise to Pay.**** Borrower hereby unconditionally promises to pay Lender the outstanding principal amount of the Loan, accrued and unpaid interest thereon, and all other amounts payable hereunder as and when due in accordance with this Agreement.

**2.1.1    **Loan.****

(a)      Availability. Subject to the terms and conditions of this Agreement, on the Effective Date Lender shall lend to Borrower an aggregate amount not to exceed Six Million One Hundred Thousand Dollars (\$6,100,000.00) (the “**Loan**”). The proceeds of the Loan shall be used by Borrower to make the payments set forth on Schedule 2.1.1. Borrower acknowledges that the payment of the Loan proceeds directly to the parties set forth on Schedule 2.1.1 pursuant to instructions provided by Borrower to Lender in writing constitutes the making of the Loan by Lender to Borrower.

(b)      Repayment.

(i)      Borrower shall make payments of accrued and unpaid interest on the Loan quarterly on each October 6, January 6, April 6 and July 6 of each year until the Obligations are paid in full. All outstanding principal, accrued and unpaid interest, and all other outstanding Obligations shall be due and payable on the Maturity Date. After repayment, the Loan may not be reborrowed.

(c)      Prepayment.

(i)      Voluntary Prepayment. Borrower shall have the option to prepay all, but not less than all, of the Loan, provided Borrower (a) delivers written notice to Lender of its election to prepay the Loan at least three (3) Business Days prior to such prepayment, and (b) pays, on the date of such prepayment (1) all outstanding principal due in connection with the Loan, plus accrued and unpaid interest thereon and (2) all other sums, if any, that shall have become due and payable hereunder in connection with the Loan.

(ii)     Mandatory Prepayment Upon an Acceleration. If the Obligations are accelerated following the occurrence of an Event of Default, Borrower shall immediately pay to Lender an amount equal to the sum of (a) all outstanding principal, due in connection with the Loan, plus accrued and unpaid interest thereon and (b) all other sums, if any, that shall have become due and payable hereunder in connection with the Loan.

(iii)    Mandatory Prepayment Upon Receipt of Asset Sale Proceeds. No later than three (3) Business Days following the date of receipt by any Loan Party of any Asset Sale Proceeds, Borrower shall prepay the Loan in an aggregate amount equal to such amount of such Asset Sale Proceeds which such payment shall not exceed the amount of the outstanding Obligations.

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(iv) Mandatory Prepayment Upon Receipt of Insurance Proceeds. No later than three (3) Business Days following the date of receipt by any Loan Party of any Insurance Proceeds, Borrower shall prepay the Loan in an aggregate amount equal to such amount of such Insurance Proceeds which such payment shall not exceed the amount of the outstanding Obligations, provided that so long as no Event of Default has occurred and is continuing Borrower shall have the option to apply such Insurance Proceeds within 90 days of receipt thereof to the replacement of the assets giving rise to such Insurance Proceeds, provided that such replacement assets shall be subject to a perfected first priority Lien in favor of Lender.

(v) Mandatory Prepayment Upon Change of Control. Upon the occurrence of a Change of Control, Borrower shall immediately pay to Lender an amount equal to the sum of (a) all outstanding principal, due in connection with the Loan, plus accrued and unpaid interest thereon and (b) all other sums, if any, that shall have become due and payable hereunder in connection with the Loan

## **2.2 Payment of Interest on the Loan.**

(a) Interest Rate. Subject to Section 2.2(b) and Section 2.2(d), the principal amount outstanding under the Loan shall accrue interest at a rate of 8.0% per annum.

(b) Default Rate. Immediately upon the occurrence and during the continuance of an Event of Default, Obligations shall bear interest at a rate per annum which is five percentage points (5.0%) above the rate that is otherwise applicable thereto (the “**Default Rate**”). Fees and expenses which are required to be paid by Borrower pursuant to the Loan Documents (including, without limitation, Lender Expenses) but are not paid when due shall bear interest until paid at a rate equal to the highest rate applicable to the Obligations. Payment or acceptance of the increased interest rate provided in this Section 2.2(b) is not a permitted alternative to timely payment and shall not constitute a waiver of any Event of Default or otherwise prejudice or limit any rights or remedies of Lender.

(c) Interest Computation. Interest shall be computed on the basis of a three hundred sixty (360) day year for the actual number of days elapsed. In computing interest, (i) all payments received after 12:00 p.m. Eastern time on any day shall be deemed received at the opening of business on the next Business Day, and (ii) the Effective Date shall be included and the date of payment shall be excluded.

(d) Maximum Interest. Notwithstanding any provision in this Agreement or any other Loan Document, it is the parties’ intent not to contract for, charge or receive interest at a rate that is greater than the maximum rate permissible by law that a court of competent jurisdiction shall deem applicable hereto (which under the laws of the State of New York shall be deemed to be the laws relating to permissible rates of interest on commercial loans) (the “**Maximum Rate**”). If a court of competent jurisdiction shall finally determine that Borrower has actually paid to Lender an amount of interest in excess of the amount that would have been payable if all of the Obligations had at all times borne interest at the Maximum Rate, then such excess interest actually paid by Borrower shall be applied as follows: first, to the payment of the Obligations consisting of the outstanding principal; second, after all principal is repaid, to the payment of Lender’s accrued interest, costs, expenses, professional fees and any other Obligations; and third, after all Obligations are repaid, the excess (if any) shall be refunded to Borrower.

**2.3 Fees and Expenses.** Borrower shall pay to Lender all Lender Expenses (including up to \$100,000 in attorneys’ fees and expenses for diligence, documentation and negotiation of the Loan Documents) incurred through and after the Effective Date, when due (or, if no stated due date, upon demand by Lender).

## **2.4 Payments; Application of Payments.**

(a) All payments to be made by Borrower under any Loan Document shall be made in immediately available funds in Dollars, without setoff or counterclaim, before 12:00 p.m. Eastern time on the date when due. Payments of principal and/or interest received after 12:00 p.m. Eastern time are considered received at the opening of business on the next Business Day. When a payment is due on a day that is not a Business Day, the payment shall be due the next Business Day, and additional fees or interest, as applicable, shall continue to accrue until paid.



(b) Lender has the exclusive right to determine the order and manner in which all payments with respect to the Obligations may be applied. Borrower shall have no right to specify the order or the accounts to which Lender shall allocate or apply any payments required to be made by Borrower to Lender or otherwise received by Lender under this Agreement when any such allocation or application is not specified elsewhere in this Agreement.

**2.5 Withholding.** Payments received by Lender from Borrower under this Agreement will be made free and clear of and without deduction for any and all present or future taxes, levies, imposts, duties, deductions, withholdings, assessments, fees or other charges imposed by any Governmental Authority (including any interest, additions to tax or penalties applicable thereto). Specifically, however, if at any time any Governmental Authority, applicable law, regulation or international agreement requires Borrower to make any withholding or deduction from any such payment or other sum payable hereunder to Lender, Borrower hereby covenants and agrees that the amount due from Borrower with respect to such payment or other sum payable hereunder will be increased to the extent necessary to ensure that, after the making of such required withholding or deduction, Lender receives a net sum equal to the sum which it would have received had no withholding or deduction been required, and Borrower shall pay the full amount withheld or deducted to the relevant Governmental Authority. Borrower will, upon request, furnish Lender with proof reasonably satisfactory to Lender indicating that Borrower has made such withholding payment; provided, however, that Borrower need not make any withholding payment if the amount or validity of such withholding payment is contested in good faith by appropriate and timely proceedings and as to which payment in full is bonded or reserved against by Borrower. The agreements and obligations of Borrower contained in this Section 2.5 shall survive the termination of this Agreement.

### **3 CONDITIONS OF LOAN**

**3.1 Conditions Precedent to Loan.** Lender's obligation to make the Loan is subject to the condition precedent that Lender shall have received, in form and substance satisfactory to Lender, such documents, and completion of such other matters, as Lender may reasonably deem necessary or appropriate, including, without limitation:

- (a) duly executed signatures to the Loan Documents;
- (b) the Operating Documents and good standing certificates of Borrower and its Subsidiaries certified by the Secretary of State (or equivalent agency) of Borrower's and such Subsidiaries' jurisdiction of organization or formation and each jurisdiction in which Borrower and each Subsidiary is qualified to conduct business, each as of a date no earlier than thirty (30) days prior to the Effective Date; provided that Lender may agree in its sole discretion to extend the deadline for delivering the items in this clause (b) to a date after the Effective Date;
- (c) duly executed signatures to the completed resolutions for each Loan Party approving the transactions contemplated by this Agreement;
- (d) filings and actions necessary to perfect Liens created hereunder, including without limitation, UCC-1 financing statements in form satisfactory to Lender;
- (e) any shareholder consents necessary to approve the transactions contemplated by this Agreement;
- (f) executed estoppel certificates in form and substance acceptable to Lender duly executed by affiliates of Borrower who invested in Borrower's last equity offering on or about April 30, 2018;
- (g) all documentation necessary or reasonably requested by Lender evidencing the release of all liens securing the obligations described on Schedule 2.1.1; and

(h) such other documents or items as Lender may request, in each case duly executed by the Loan Parties to further implement and effectuate the purposes of the Agreement.

**4        RESERVED**

**5        REPRESENTATIONS AND WARRANTIES**

Borrower represents and warrants as follows:

**5.1        Due Organization, Authorization; Power and Authority.** Borrower and each of its Subsidiaries is duly existing and in good standing as a corporation in its jurisdiction of formation and is qualified and licensed to do business and is in good standing in any jurisdiction in which the conduct of its business or its ownership of property requires that it be qualified except where the failure to do so could not reasonably be expected to have a material adverse effect on Borrower's business. Borrower represents and warrants to Lender that (a) Borrower's exact legal name is that indicated in the preamble hereto and on the signature page hereof; (b) Borrower is an organization of the type and is organized in the jurisdiction set forth in the preamble hereto; (c) Borrower's organizational identification number is E0780542007-8; (d) Section 11 accurately sets forth Borrower's place of business, or, if more than one, its chief executive office as well as Borrower's mailing address (if different than its chief executive office); (e) Borrower (and each of its predecessors) has not, in the past five (5) years, changed its jurisdiction of formation, organizational structure or type, or any organizational number assigned by its jurisdiction; and (f) all other information set forth on the Schedules hereto pertaining to Borrower and each of its Subsidiaries is accurate and complete (it being understood and agreed that Borrower may from time to time update certain information in the Schedules after the Effective Date to the extent permitted by one or more specific provisions in this Agreement).

The execution, delivery and performance by Borrower of the Loan Documents to which it is a party have been duly authorized, and do not (i) conflict with any of Borrower's organizational documents, (ii) contravene, conflict with, constitute a default under or violate any material Requirement of Law, (iii) contravene, conflict or violate any applicable order, writ, judgment, injunction, decree, determination or award of any Governmental Authority by which Borrower or any of its Subsidiaries or any of their property or assets may be bound or affected, (iv) require any action by, filing, registration, or qualification with, or Governmental Approval from, any Governmental Authority (except such Governmental Approvals which have already been obtained and are in full force and effect or (v) conflict with, contravene, constitute a default or breach under, or result in or permit the termination or acceleration of, any material agreement by which Borrower is bound. Borrower is not in default under any agreement to which it is a party or by which it is bound in which the default could reasonably be expected to have a material adverse effect on Borrower's business.

**5.2        Reserved.**

**5.3        Reserved.**

**5.4        Litigation.** Except as set forth on Schedule 5.4, there are no actions or proceedings pending or, to the knowledge of any Responsible Officer, threatened in writing by or against Borrower or any of its Subsidiaries involving more than, individually or in the aggregate, Fifty Thousand Dollars (\$50,000).

**5.5        Financial Statements; Financial Condition.** All consolidated financial statements for Borrower and any of its Subsidiaries delivered to Lender fairly present in all material respects Borrower's consolidated financial condition and Borrower's consolidated results of operations.

**5.6        Solvency.** Upon closing of the Equity Offering: the fair salable value of Borrower's consolidated assets (including goodwill minus disposition costs) will exceed the fair value of Borrower's liabilities; Borrower will not be left with unreasonably small capital after the transactions in this Agreement and the closing of the Equity Offering; and Borrower is able to pay its debts (including trade debts) as they mature following the closing of the Equity Offering.

**5.7 Subsidiaries; Investments.** Borrower does not own any stock, partnership, or other ownership interest or other equity securities except for Permitted Investments.

**5.8 Tax Returns and Payments.** Borrower has timely filed all required tax returns and reports, and Borrower has timely paid all foreign, federal, state and local taxes, assessments, deposits and contributions owed by Borrower except to the extent such taxes are being contested in good faith by appropriate proceedings promptly instituted and diligently conducted, so long as such reserve or other appropriate provision, if any, as shall be required in conformity with GAAP shall have been made therefor.

**5.9 Use of Proceeds.** The proceeds of the Loan shall be used exclusively by Borrower to pay in full in cash on the Effective Date the obligations described on Schedule 2.1.1 (the “**Proceeds Purposes**”) and not for personal, family, household or agricultural purposes.

**5.10 Full Disclosure.** No written representation, warranty or other statement of Borrower in any certificate or written statement given to Lender, as of the date such representation, warranty, or other statement was made, taken together with all such written certificates and written statements given to Lender, contains any untrue statement of a material fact or omits to state a material fact necessary to make the statements contained in the certificates or statements not misleading (it being recognized by Lender that the projections and forecasts provided by Borrower in good faith and based upon reasonable assumptions are not viewed as facts and that actual results during the period or periods covered by such projections and forecasts may differ from the projected or forecasted results).

## **6 AFFIRMATIVE COVENANTS**

Borrower shall do all of the following:

### **6.1 Government Compliance.**

(a) Maintain its and all its Subsidiaries’ legal existence and good standing in their respective jurisdictions of formation and maintain qualification in each jurisdiction in which the failure to so qualify would reasonably be expected to have a material adverse effect on Borrower’s business or operations. Borrower shall comply, and have each Subsidiary comply, in all material respects, with all laws, ordinances and regulations to which it is subject.

(b) Obtain all of the Governmental Approvals necessary for the performance by Borrower of its obligations under the Loan Documents to which it is a party and the grant of a security interest to Lender in all of its property. Borrower shall promptly provide copies of any such obtained Governmental Approvals to Lender.

### **6.2 Financial Statements, Reports, Certificates.** Provide Lender with the following:

(a) Monthly Financial Statements. (i) As soon as available, but no later than thirty (30) days after the last day of each month, notice that a company prepared consolidated and consolidating balance sheet and income statement covering Borrower’s and each of its Subsidiary’s operations for such month certified by a Responsible Officer and in a form acceptable to Lender (the “**Monthly Financial Statements**”) are available to Lender and (ii) promptly (and solely) upon request of Lender, copies of such Monthly Financial Statements;

(b) Reserved;

(c) Monthly Compliance Certificate. Together with the Monthly Financial Statements but no later than thirty (30) days after the last day of each month, a duly completed Compliance Certificate signed by a Responsible Officer, certifying that as of the end of such month, Borrower was in full compliance with all of the terms and conditions of this Agreement, and setting forth such other information as Lender may reasonably request;

(d) Reserved;

(e) Annual Operating Budget and Financial Projections. Within thirty (30) days after the end of each fiscal year of Borrower, (i) annual operating budgets (including income statements, balance sheets and cash flow statements, by month) for such fiscal year of Borrower, and (ii) annual financial projections for such fiscal year (on a quarterly basis) as approved by Borrower's board of directors, together with any related business forecasts used in the preparation of such annual financial projections;

(f) Annual Financial Statements. As soon as available, but no later than one hundred eighty (180) days after the last day of Borrower's fiscal year, consolidated financial statements prepared under GAAP, consistently applied together with an unqualified opinion on the financial statements from an independent certified public accounting firm reasonably acceptable to Lender (the "**Annual Financial Statements**");

(a) SEC Filings. Within five (5) days of filing, copies of all periodic and other reports, proxy statements and other materials filed by Borrower with the SEC, any Governmental Authority succeeding to any or all of the functions of the SEC or with any national securities exchange, or distributed to its shareholders, as the case may be. Documents required to be delivered pursuant to the terms hereof (to the extent any such documents are included in materials otherwise filed with the SEC) may be delivered electronically and if so delivered, shall be deemed to have been delivered on the date on which Borrower posts such documents, or provides a link thereto, on Borrower's website on the Internet at Borrower's website address; provided, however, Borrower shall promptly notify Lender in writing (which may be by electronic mail) of the posting of any such documents;

(b) Legal Action Notice. (i) A prompt report of any legal actions pending or threatened in writing against Borrower or any of its Subsidiaries that could result in damages or costs to Borrower or any of its Subsidiaries of, individually or in the aggregate, Fifty Thousand Dollars (\$50,000) or more; and (ii) within five (5) days after the same are sent or received, copies of all correspondence, reports, documents and other filings with any Governmental Authority regarding compliance with or maintenance of Governmental Approvals or Requirements of Law or that could reasonably be expected to have a material effect on any of the Governmental Approvals or otherwise on the operations of Borrower or any of its Subsidiaries; and

(c) Other Financial Information. Other financial information reasonably requested by Lender.

**6.3 Inventory; Returns.** Keep all Inventory in good and marketable condition, free from material defects. Returns and allowances between Borrower and its Account Debtors shall follow Borrower's customary practices as they exist at the Effective Date. Borrower must promptly notify Lender of all returns, recoveries, disputes and claims that involve more than Fifty Thousand Dollars (\$50,000).

**6.4 Taxes; Pensions.** Timely file, and require each of its Subsidiaries to timely file, all required tax returns and reports and timely pay, and require each of its Subsidiaries to timely pay, all foreign, federal, state and local taxes, assessments, deposits and contributions owed by Borrower and each of its Subsidiaries, except for deferred payment of any taxes contested pursuant to the terms of Section 5.8 hereof, and shall deliver to Lender, on demand, appropriate certificates attesting to such payments, and pay all amounts necessary to fund all present pension, profit sharing and deferred compensation plans in accordance with their terms.

### **6.5 Insurance.**

(a) Keep its business and the Collateral insured for risks and in amounts standard for companies in Borrower's industry and location and as Lender may reasonably request from time to time, including (i) insurance against physical loss or damage to all Collateral in an amount not less than the full replacement value of the Collateral; and (ii) liability insurance coverage against liability for bodily injury and property damage with a minimum limit acceptable to Lender. Insurance policies shall be in a form, with financially sound and reputable insurance companies that are not Affiliates of Borrower, and in amounts that are satisfactory to Lender. Subject to Section 6.12, all property policies shall have a lender's loss payable endorsement showing Lender as lender loss payee. Subject to Section 6.12, all liability policies shall show, or have endorsements showing, Lender as an additional insured. Subject to Section 6.12, Lender shall be named as lender loss payee and/or additional insured with respect to any such insurance providing coverage in respect of any Collateral.

(b) Ensure that proceeds payable under any property policy are, at Lender's option, payable to Lender on account of the Obligations.

(c) At Lender's request, Borrower shall deliver certified copies of insurance policies and evidence of all premium payments. Each provider of any such insurance required under this Section 6.5 shall agree, by endorsement upon the policy or policies issued by it or by independent instruments furnished to Lender, that it will give Lender thirty (30) days prior written notice before any such policy or policies shall be materially altered or canceled and no action or misrepresentation by Borrower shall invalidate such policy. If Borrower fails to obtain insurance as required under this Section 6.5 or to pay any amount or furnish any required proof of payment to third persons and Lender, Lender may make all or part of such payment or obtain such insurance policies required in this Section 6.5, and take any action under the policies Lender deems prudent.

**6.6 Collateral Accounts.** Subject to Section 6.12, provide Lender five (5) days prior written notice before any Loan Party establishes any Collateral Account at or with any bank or financial institution other than those listed in Schedule 2 to the Guarantee and Collateral Agreement, and, concurrently with establishing such Collateral Account, such Loan Party will cause the applicable bank or financial institution at or with which any Collateral Account is maintained to execute and deliver a Control Agreement or other appropriate instrument with respect to such Collateral Account to perfect Lender's Lien in such Collateral Account in accordance with the terms of the Loan Documents which Control Agreement may not be terminated without the prior written consent of Lender.

**6.7 Litigation Cooperation.** From the date hereof and continuing through the termination of this Agreement, make available to Lender, without expense to Lender, the Loan Parties and their respective officers, employees and agents and each Loan Party's books and records, to the extent that Lender may deem them reasonably necessary to prosecute or defend any third-party suit or proceeding instituted by or against Lender with respect to any Collateral or relating to Borrower.

**6.8 Access to Collateral; Books and Records.** Allow Lender, or its agents, at reasonable times, on five (5) Business Days' notice (provided no notice is required if an Event of Default has occurred and is continuing), to inspect the Collateral and audit and copy Borrower's Books. Such inspections or audits shall be conducted no more often than once every twelve (12) months unless an Event of Default has occurred and is continuing in which case such inspections and audits shall occur as often as Lender shall determine is necessary; provided that it is acknowledged that Lender has not had a full and complete opportunity to complete its business and legal due diligence prior to the Effective Date, such diligence will be ongoing following the Effective Date, and such diligence shall not count against the foregoing limit on inspections or audits. The foregoing inspections and audits shall be at Borrower's expense.

**6.9 Formation or Acquisition of Subsidiaries.** Notwithstanding and without limiting the negative covenants contained in Sections 7.3 and 7.6 hereof, at the time that any Loan Party forms any direct or indirect Subsidiary or acquires any direct or indirect Subsidiary after the Effective Date, such Loan Party shall (a) cause such new Subsidiary to provide to Lender a joinder to the Guarantee and Collateral Agreement to cause such Subsidiary to become a guarantor and grantor thereunder, together with such appropriate financing statements and/or Control Agreements, all in form and substance satisfactory to Lender (including being sufficient to grant Lender a first priority Lien in and to the assets of such newly formed or acquired Subsidiary), (b) provide to Lender appropriate certificates and powers and financing statements, pledging all of the direct or beneficial ownership interest in such new Subsidiary, in form and substance satisfactory to Lender, and (c) provide to Lender all other documentation in form and substance satisfactory to Lender, which in its opinion is appropriate with respect to the execution and delivery of the applicable documentation referred to above. Any document, agreement, or instrument executed or issued pursuant to this Section 6.9 shall be a Loan Document.

**6.10 Further Assurances.** Execute any further instruments and take further action as Lender reasonably requests to perfect or continue Lender's Lien in the Collateral or to effect the purposes of this Agreement.

**6.11 Protection of Intellectual Property Rights.** (i) Protect, defend and maintain the validity and enforceability of each Loan Party's Intellectual Property; (ii) promptly advise Lender in writing of material infringements or any other event that could reasonably be expected to materially and adversely affect the value of any Loan Party's Intellectual Property; and (iii) not allow any Intellectual Property material to any Loan Party's business to be abandoned, forfeited or dedicated to the public without Lender's written consent.

## 6.12 Post-Closing Perfection Requirements.

(a) Warrant. Within five (5) Business Days after the Effective Date, Borrower shall have (i) issued to Lender a fully executed warrant for 10% of the outstanding common stock of Borrower as of such date at a strike price of \$2.00 with a term of five years and which shall be exercisable on a cash-pay basis, subject to anti-dilution provisions while the Obligations are outstanding, including, without limitation, in connection with additional equity capital raises, such that the Warrant (as defined below) will continue to be exercisable for 10% of the outstanding common shares after any subsequent equity capital raises, and subject to other terms acceptable to Lender (as amended, restated or otherwise modified from time to time, the "**Warrant**"), (ii) delivered to Lender evidence satisfactory to Lender that all board and shareholder consents necessary in connection with the Warrant have been obtained, (iii) delivered to Lender evidence satisfactory to Lender that Borrower has authorized and reserved a sufficient number of shares of common stock to issue upon exercise of the Warrant, and (iv) delivered to Lender evidence satisfactory to Lender that all filings necessary to be made with the SEC and Nasdaq in connection with the issuance of the Warrant have been made.

(b) Insurance. Within five (5) Business Days after the Effective Date, Borrower shall have delivered to Lender evidence satisfactory to Lender that the insurance policies and endorsements required by Section 6.5 hereof are in full force and effect, together with appropriate evidence showing lender loss payable and/or additional insured clauses or endorsements in favor of Lender.

(c) Board Designee. Within five (5) Business Days after the Effective Date, Borrower shall have delivered to Lender evidence satisfactory to Lender that a Person designated in writing by Lender has been appointed as a voting member of the board of directors of Borrower for no less than a 12-month term, that all board and shareholder consents necessary in connection with the appointment of such member have been obtained, and that all amendments to Borrower's Operating Documents and any investor rights agreement necessary to effectuate the foregoing have become effective.

(d) Mortgage Release. Within five (5) Business Days after the Effective Date, Lender shall have received evidence that a release of the mortgage securing the obligation described in item 5 of Schedule 2.1.1 has been duly executed and duly recorded in the county in which the property securing such obligation is located.

(e) Investment Property Collateral. Within five (5) Business Days after the Effective Date, Borrower shall have delivered to Lender original certificates representing all certificated securities owned by the Loan Parties as of such date together with customary endorsements or instruments of transfer duly executed in blank.

(f) Control Agreements. Within thirty (30) days after the Effective Date, Borrower shall have delivered to Lender fully executed by the applicable Loan Party and bank or financial institution at or with which any Collateral Account is maintained by a Loan Party a Control Agreement or other appropriate instrument with respect to each Collateral Account maintained by a Loan Party to perfect Lender's Lien in such Collateral Account.

(g) Motor Vehicles. Within thirty (30) days after the Effective Date, to the extent requested by Lender, Borrower shall have delivered to Lender evidence satisfactory to Lender that all actions necessary or requested by Lender to perfect Lender's Lien in each motor vehicle owned by a Loan Party have been taken.

(h) Mortgages. Within sixty (60) days after the Effective Date (and for all Real Property acquired by any Loan Party after the Effective Date, within sixty (60) days after acquisition thereof), Borrower shall deliver to Lender the following with respect to the Real Property owned by each Loan Party: (i) a Mortgage with respect to such Real Property, (ii) one or more appraisals of such Real Property satisfactory to Lender, (iii) a mortgagee title insurance policy (or marked commitment to issue the same) for such Real Property issued by a title insurance company satisfactory to Lender (a "**Mortgage Policy**") in an amount satisfactory to Lender assuring Lender that the Mortgage on such Real Property is valid and enforceable mortgage Lien on such Real Property free and clear of all defects and encumbrances except Permitted Liens, which Mortgage Policy otherwise must be in form and substance satisfactory to Lender, (iii) a real estate survey with respect to each parcel composing such Real Property (the surveyors retained for such surveys, the scope of the surveys, and the results thereof must be acceptable to Lender), (iv) to the extent obtainable using commercially reasonable efforts, any consents or estoppels reasonably deemed necessary or advisable by Lender in connection with such Mortgage, each of the foregoing in form and substance satisfactory to Lender, (v) if requested by Lender, one or more legal opinions relating to the matters described above, which opinions must be in form and substance, and from counsel, satisfactory to Lender, and (vi) any necessary consents to the foregoing by, and intercreditor agreements with, the existing mortgage lender with respect to any such Real Property as the Lender may request.

(i) Landlord Consents. Borrower shall execute and deliver such landlord's consents in favor of Lender for each of Borrower's locations executed by the respective landlord thereof in form and substance reasonably satisfactory to Lender to the extent requested by Lender from time to time.

(j) Sale Process and Financing Milestones.

(i) No later than July 16, 2018, Borrower will retain on terms acceptable to Lender an investment banking firm approved by Lender (or included on a list of pre-approved firms submitted by Borrower and approved by Lender in writing) to conduct a sale of Surefly, Inc.;

(ii) No later than January 6, 2019, Borrower shall, and shall cause the direct parent of Surefly, Inc. to consummate a sale of Surefly, Inc. resulting in cash proceeds of no less than \$20,000,000;

(iii) No later than July 16, 2018, Borrower will retain on terms acceptable to Lender an investment banking firm approved by Lender (or included on a list of pre-approved firms submitted by Borrower and approved by Lender in writing) to conduct an equity offering; and

(iv) No later than September 30, 2018, Borrower shall have received gross proceeds in an amount no less than \$10,000,000 from the issuance of new equity (the "Equity Offering").

## 7 NEGATIVE COVENANTS

Borrower shall not do any of the following without Lender's prior written consent:

**7.1 Dispositions.** Convey, sell, lease, transfer, assign, or otherwise dispose of (collectively, "**Transfer**"), or permit any of its Subsidiaries to Transfer, all or any part of its business or property, except for Transfers (a) of inventory in the ordinary course of business; (b) of worn-out or obsolete Equipment that is, in the reasonable judgment of Borrower, no longer economically practicable to maintain or useful in the ordinary course of business of Borrower; (c) consisting of Permitted Liens and Permitted Investments; (d) consisting of Borrower's use or transfer of money or Cash Equivalents in a manner that is not prohibited by the terms of this Agreement or the other Loan Documents; and (e) of all of the outstanding equity or assets of Surefly, Inc. in accordance with Sections 2.1.1(c)(iii) and 6.12(i)(iv).

**7.2 Changes in Business, Management, Control, or Business Locations.** (a) Engage in or permit any of its Subsidiaries to engage in any business other than the businesses currently engaged in by Borrower and such Subsidiary, as applicable, or reasonably related thereto; (b) liquidate or dissolve or permit any of its Subsidiaries to liquidate or dissolve; or (c) permit or suffer any Change in Control except where the Loan Documents are terminated and all Obligations are repaid in full in cash prior to or simultaneously with the closing of the transaction that results in the Change in Control.

Borrower shall not, and shall not permit any of its Subsidiaries, without at least thirty (30) days prior written notice to Lender: (1) add any new offices or business locations, including warehouses (unless such new offices or business locations contain less than Fifty Thousand Dollars (\$50,000) in any Loan Party's assets or property) or deliver any portion of the Collateral valued, individually or in the aggregate, in excess of Fifty Thousand Dollars (\$50,000) to a bailee at a location other than to a bailee and at a location already disclosed in Schedule 3 to the Guarantee and Collateral Agreement, (2) change its jurisdiction of organization, (3) change its organizational structure or type, (4) change its legal name, or (5) change any organizational number (if any) assigned by its jurisdiction of organization. If Borrower or any Loan Party intends to deliver any portion of the Collateral valued, individually or in the aggregate, in excess of Twenty-Five Thousand Dollars (\$25,000) to a bailee, and Lender and such bailee are not already parties to a bailee agreement governing both the Collateral and the location to which such Loan Party intends to deliver the Collateral, then such Loan Party will first receive the written consent of Lender, and such bailee shall execute and deliver a bailee agreement in form and substance satisfactory to Lender.

**7.3 Mergers or Acquisitions.** Merge or consolidate, or permit any of its Subsidiaries to merge or consolidate, with any other Person, or acquire, or permit any of its Subsidiaries to acquire, all or substantially all of the capital stock or property of another Person (including, without limitation, by the formation of any Subsidiary). A Subsidiary may merge or consolidate into another Subsidiary or into Borrower.

**7.4 Indebtedness.** Create, incur, assume, or be liable for any Indebtedness, or permit any Subsidiary to do so, other than (a) Permitted Indebtedness or (b) other Indebtedness with the prior written consent of Lender.

**7.5 Encumbrance.** (a) Create, incur, allow, or suffer any Lien on any of its property, or assign or convey any right to receive income, including the sale of any Accounts, or permit any of its Subsidiaries to do so, except for Permitted Liens, or (b) permit any Collateral not to be subject to the first priority security interest granted herein.

**7.6 Distributions; Investments.** (a) Pay any dividends or make any distribution or payment or redeem, retire or purchase any capital stock provided that Borrower may pay dividends solely in common stock; or (b) directly or indirectly make any Investment (including, without limitation, by the formation of any Subsidiary) other than Permitted Investments, or permit any of its Subsidiaries to do so.

**7.7 Transactions with Affiliates .** Directly or indirectly enter into or permit to exist any material transaction with any Affiliate of Borrower, except for transactions that are in the ordinary course of Borrower's business, upon fair and reasonable terms that are no less favorable to Borrower than would be obtained in an arm's length transaction with a non-affiliated Person.

**7.8 Use of Proceeds.** Use the proceeds of the Loan for any other purpose other than for the Proceeds Purposes.

## **8 EVENTS OF DEFAULT**

Any one of the following shall constitute an event of default (an "**Event of Default**") under this Agreement:

**8.1 Payment Default.** Borrower fails to (a) make any payment of principal or interest on the Loan when due, or (b) pay any other Obligations within three (3) Business Days after such Obligations are due and payable (which three (3) Business Day cure period shall not apply to payments due on the Maturity Date); or

### **8.2 Covenant Default.**

(a) Borrower fails or neglects to perform any obligation or violates (i) any covenant in Section 6 and has failed to cure the default within five (5) days after occurrence thereof or (ii) violates any covenant in Section 7; or

(b) Borrower fails or neglects to perform, keep, or observe any other term, provision, condition, covenant or agreement contained in this Agreement, any Loan Documents or any other agreement by and between Borrower and Lender or Lender's Affiliates, and as to any default (other than those specified in this Section 8) under such other term, provision, condition, covenant or agreement that can be cured, has failed to cure the default within ten (10) days after the occurrence thereof; provided, however, that if the default cannot by its nature be cured within the ten (10) day period or cannot after diligent attempts by Borrower be cured within such ten (10) day period, and such default is likely to be cured within a reasonable time, then Borrower shall have an additional period (which shall not in any case exceed thirty (30) days) to attempt to cure such default, and within such reasonable time period the failure to cure the default shall not be deemed an Event of Default. Cure periods provided under this section shall not apply, among other things, to financial covenants or any other covenants set forth in clause (a) above.



**8.3 Attachment; Levy; Restraint on Business.**

(a) (i) The service of process seeking to attach, by trustee or similar process, any funds of Borrower or of any entity under the control of Borrower (including a Subsidiary), or (ii) a notice of lien or levy is filed against any of Borrower's assets by any Governmental Authority, and the same under subclauses (i) and (ii) hereof are not, within ten (10) days after the occurrence thereof, discharged or stayed (whether through the posting of a bond or otherwise); or

(b) (i) any material portion of Borrower's assets is attached, seized, levied on, or comes into possession of a trustee or receiver, or (ii) any court order enjoins, restrains, or prevents Borrower from conducting all or any material part of its business;

**8.4 Insolvency.** (a) Following the closing of the Equity Offering, Borrower or any of its Subsidiaries is unable to pay its debts (including trade debts) as they become due or otherwise becomes insolvent; (b) Borrower or any of its Subsidiaries begins an Insolvency Proceeding; or (c) an Insolvency Proceeding is begun against Borrower or any of its Subsidiaries and is not dismissed or stayed within thirty (30) days;

**8.5 Other Agreements.** There is, under any agreement to which Borrower is a party with a third party or parties, (a) any default resulting in a right by such third party or parties, whether or not exercised, to accelerate the maturity of any Indebtedness in an amount individually or in the aggregate in excess of Fifty Thousand Dollars (\$50,000); or (b) any breach or default by Borrower, the result of which could have a material adverse effect on Borrower's business;

**8.6 Judgments; Penalties.** One or more fines, penalties or final judgments, orders or decrees for the payment of money in an amount, individually or in the aggregate, of at least Fifty Thousand Dollars (\$50,000) (not covered by independent third-party insurance as to which liability has been accepted by such insurance carrier) shall be rendered against Borrower by any Governmental Authority, and the same are not, within ten (10) days after the entry, assessment or issuance thereof, discharged, satisfied, or paid, or after execution thereof, stayed or bonded pending appeal, or such judgments are not discharged prior to the expiration of any such stay;

**8.7 Misrepresentations.** Borrower or any Person acting for Borrower makes any representation, warranty, or other statement now or later in this Agreement, any Loan Document or in any writing delivered to Lender or to induce Lender to enter this Agreement or any Loan Document, and such representation, warranty, or other statement is incorrect in any material respect when made;

**8.8 Governmental Approvals.** Any Governmental Approval shall have been (a) revoked, rescinded, suspended, modified in an adverse manner or not renewed in the ordinary course for a full term or (b) subject to any decision by a Governmental Authority that designates a hearing with respect to any applications for renewal of any of such Governmental Approval or that could result in the Governmental Authority taking any of the actions described in clause (a) above, and such decision or such revocation, rescission, suspension, modification or non-renewal (i) cause, or could reasonably be expected to cause, a Material Adverse Change, or (ii) adversely affects the legal qualifications of Borrower or any of its Subsidiaries to hold such Governmental Approval in any applicable jurisdiction and such revocation, rescission, suspension, modification or non-renewal could reasonably be expected to affect the status of or legal qualifications of Borrower or any of its Subsidiaries to hold any Governmental Approval in any other jurisdiction.

**8.9 Material Adverse Change.** There occurs a Material Adverse Change.

## 9 LENDER'S RIGHTS AND REMEDIES

**9.1 Rights and Remedies.** Upon the occurrence and during the continuance of an Event of Default, Lender may, without notice or demand, do any or all of the following:

- (a) declare all Obligations immediately due and payable (but if an Event of Default described in Section 8.4 occurs all Obligations are immediately due and payable without any action by Lender);
- (b) stop advancing money or extending credit for Borrower's benefit under this Agreement or under any other agreement between Borrower and Lender;
- (c) verify the amount of, demand payment of and performance under, and collect any Accounts and General Intangibles, settle or adjust disputes and claims directly with Account Debtors for amounts on terms and in any order that Lender considers advisable, and notify any Person owing Borrower money of Lender's security interest in such funds;
- (d) make any payments and do any acts it considers necessary or reasonable to protect the Collateral and/or its security interest in the Collateral. Borrower shall assemble the Collateral if Lender requests and make it available as Lender designates. Lender may enter premises where the Collateral is located, take and maintain possession of any part of the Collateral, and pay, purchase, contest, or compromise any Lien which appears to be prior or superior to its security interest and pay all expenses incurred. Borrower grants Lender a license to enter and occupy any of its premises, without charge, to exercise any of Lender's rights or remedies;
- (e) apply to the Obligations any (i) balances and deposits of Borrower it holds, or (ii) any amount held by Lender owing to or for the credit or the account of Borrower;
- (f) ship, reclaim, recover, store, finish, maintain, repair, prepare for sale, advertise for sale, and sell the Collateral. Lender is hereby granted a non-exclusive, royalty-free license or other right to use, without charge, Borrower's labels, patents, copyrights, mask works, rights of use of any name, trade secrets, trade names, trademarks, and advertising matter, or any similar property as it pertains to the Collateral, in completing production of, advertising for sale, and selling any Collateral and, in connection with Lender's exercise of its rights under this Section, Borrower's rights under all licenses and all franchise agreements inure to Lender's benefit;
- (g) place a "hold" on any account maintained with Lender and/or deliver a notice of exclusive control, any entitlement order, or other directions or instructions pursuant to any Control Agreement or similar agreements providing control of any Collateral;
- (h) demand and receive possession of Borrower's Books; and
- (i) exercise all rights and remedies available to Lender under the Loan Documents or at law or equity, including all remedies provided under the Code (including disposal of the Collateral pursuant to the terms thereof).

**9.2 Power of Attorney.** Borrower hereby irrevocably appoints Lender as its lawful attorney-in-fact, exercisable upon the occurrence and during the continuance of an Event of Default, to: (a) endorse Borrower's name on any checks or other forms of payment or security; (b) sign Borrower's name on any invoice or bill of lading for any Account or drafts against Account Debtors; (c) settle and adjust disputes and claims about the Accounts directly with Account Debtors, for amounts and on terms Lender determines reasonable; (d) make, settle, and adjust all claims under Borrower's insurance policies; (e) pay, contest or settle any Lien, charge, encumbrance, security interest, and adverse claim in or to the Collateral, or any judgment based thereon, or otherwise take any action to terminate or discharge the same; and (f) transfer the Collateral into the name of Lender or a third party as the Code permits. Borrower, on behalf of itself and each Loan Party, hereby appoints Lender as its and such Loan Party's lawful attorney-in-fact to sign Borrower's or any Loan Party's name on any documents necessary to perfect or continue the perfection of Lender's security interest in the Collateral and necessary to satisfy the requirements of Section 6.12 (including the execution of Mortgages and Control Agreements) regardless of whether an Event of Default has occurred until all Obligations have been satisfied in full. Lender's foregoing appointment as Borrower's and each Loan Party's attorney in fact, and all of Lender's rights and powers, coupled with an interest, are irrevocable until all Obligations have been fully repaid and performed.

**9.3 Protective Payments.** If Borrower fails to obtain the insurance called for by Section 6.5 or fails to pay any premium thereon or fails to pay any other amount which Borrower is obligated to pay under this Agreement or any other Loan Document or which may be required to preserve the Collateral, Lender may obtain such insurance or make such payment, and all amounts so paid by Lender are Lender Expenses and immediately due and payable, bearing interest at the then highest rate applicable to the Obligations, and secured by the Collateral. Lender will make reasonable efforts to provide Borrower with notice of Lender obtaining such insurance at the time it is obtained or within a reasonable time thereafter. No payments by Lender are deemed an agreement to make similar payments in the future or Lender's waiver of any Event of Default.

**9.4 Application of Payments and Proceeds Upon Default.** If an Event of Default has occurred and is continuing, Lender shall have the right to apply in any order any funds in its possession, whether from Borrower account balances, payments, proceeds realized as the result of any collection of Accounts or other disposition of the Collateral, or otherwise, to the Obligations. Lender shall pay any surplus to Borrower or to other Persons legally entitled thereto; Borrower shall remain liable to Lender for any deficiency. If Lender, directly or indirectly, enters into a deferred payment or other credit transaction with any purchaser at any sale of Collateral, Lender shall have the option, exercisable at any time, of either reducing the Obligations by the principal amount of the purchase price or deferring the reduction of the Obligations until the actual receipt by Lender of cash therefor.

**9.5 Lender's Liability for Collateral.** So long as Lender complies with reasonable banking and business practices regarding the safekeeping of the Collateral in the possession or under the control of Lender, Lender shall not be liable or responsible for: (a) the safekeeping of the Collateral; (b) any loss or damage to the Collateral; (c) any diminution in the value of the Collateral; or (d) any act or default of any carrier, warehouseman, bailee, or other Person. Borrower bears all risk of loss, damage or destruction of the Collateral.

**9.6 No Waiver; Remedies Cumulative.** Lender's failure, at any time or times, to require strict performance by Borrower of any provision of this Agreement or any other Loan Document shall not waive, affect, or diminish any right of Lender thereafter to demand strict performance and compliance herewith or therewith. No waiver hereunder shall be effective unless signed by the party granting the waiver and then is only effective for the specific instance and purpose for which it is given. Lender's rights and remedies under this Agreement and the other Loan Documents are cumulative. Lender has all rights and remedies provided under the Code, by law, or in equity. Lender's exercise of one right or remedy is not an election and shall not preclude Lender from exercising any other remedy under this Agreement or other remedy available at law or in equity, and Lender's waiver of any Event of Default is not a continuing waiver. Lender's delay in exercising any remedy is not a waiver, election, or acquiescence.

**9.7 Demand Waiver.** Borrower waives demand, notice of default or dishonor, notice of payment and nonpayment, notice of any default, nonpayment at maturity, release, compromise, settlement, extension, or renewal of accounts, documents, instruments, chattel paper, and guarantees held by Lender on which Borrower is liable.

## **10 RIGHT OF FIRST REFUSAL**

**10.1** While the Loan remains outstanding (subject to the right of participation set forth in Section 4(p) of the Securities Purchase Agreement dated December 27, 2017 between the Company, Surefly, Inc. and the Buyers set forth therein (the "Purchase Agreement") in connection with any Subsequent Financing (as defined in the Purchase Agreement) by Surefly, Inc. or any of its subsidiaries), in the event that Borrower or any of its Subsidiaries proposes to raise capital after the Effective Date by the issuance of new equity or the board of directors of Borrower or any such Subsidiary approves an agreement to effectuate the foregoing (a "**ROFR Financing**"), in each case, at any time on or prior to the Maturity Date, then, prior to the consummation of such ROFR Financing, Lender shall have the right, but not the obligation, to participate in such ROFR Financing on terms no less favorable than those offered to the investors in such ROFR Financing (the "**ROFR**"). Borrower shall give no less than thirty (30) Business Days' prior written notice of the proposed closing date of a ROFR Financing, and Lender shall have ten (10) Business Days from the date of such notice to exercise the ROFR (notwithstanding the foregoing, in the event of a public market equity offering, Borrower shall use best efforts to provide Lender as much prior notice thereof as possible and Borrower shall be required to promptly respond to exercise the ROFR). Failure to exercise the ROFR within such period shall be deemed a rejection of the ROFR for the particular ROFR Financing for which Borrower delivered such notice. In the event Lender elects to exercise its ROFR, Borrower agrees to take all action necessary to consummate the ROFR Financing with Lender as an investor within twenty (20) days of the date of Lender's notice of exercise of the ROFR.

## 11 NOTICES

All notices, consents, requests, approvals, demands, or other communication by any party to this Agreement or any other Loan Document must be in writing and shall be deemed to have been validly served, given, or delivered: (a) upon the earlier of actual receipt and three (3) Business Days after deposit in the U.S. mail, first class, registered or certified mail return receipt requested, with proper postage prepaid; (b) upon transmission, when sent by electronic mail or facsimile transmission; (c) one (1) Business Day after deposit with a reputable overnight courier with all charges prepaid; or (d) when delivered, if hand-delivered by messenger, all of which shall be addressed to the party to be notified and sent to the address, facsimile number, or email address indicated below. Lender or Borrower may change its mailing or electronic mail address or facsimile number by giving the other party written notice thereof in accordance with the terms of this Section 11.

If to Borrower:                         WORKHORSE GROUP INC.  
100 Commerce Drive  
Loveland, Ohio 45140  
Attn: Paul Gaitan, CFO  
Email: [paul.gaitan@workhorse.com](mailto:paul.gaitan@workhorse.com)

With a copy to:  
Fleming PLLC  
30 Wall Street, 8th Floor  
New York, New York 10005  
Attn: Stephen M. Fleming  
Email: [smf@flemingpllc.com](mailto:smf@flemingpllc.com)

If to Lender:                                 \_\_\_\_\_  
120 West 45<sup>th</sup> St., Suite 3700  
New York, New York 10036  
Attn: Jonathan Feiler  
Email: [jonathan.feiler@arosacapital.com](mailto:jonathan.feiler@arosacapital.com)

## 12 CHOICE OF LAW, VENUE, JURY TRIAL WAIVER, AND JUDICIAL REFERENCE

Except as otherwise expressly provided in any of the Loan Documents, New York law governs the Loan Documents without regard to principles of conflicts of law. Borrower and Lender each submit to the exclusive jurisdiction of the State and Federal courts in New York City, New York, Borough of Manhattan; provided, however, that nothing in this Agreement shall be deemed to operate to preclude Lender from bringing suit or taking other legal action in any other jurisdiction to realize on the Collateral or any other security for the Obligations, or to enforce a judgment or other court order in favor of Lender. Borrower expressly submits and consents in advance to such jurisdiction in any action or suit commenced in any such court, and Borrower hereby waives any objection that it may have based upon lack of personal jurisdiction, improper venue, or forum non conveniens and hereby consents to the granting of such legal or equitable relief as is deemed appropriate by such court. Borrower hereby waives personal service of the summons, complaints, and other process issued in such action or suit and agrees that service of such summons, complaints, and other process may be made by registered or certified mail addressed to Borrower at the address set forth in, or subsequently provided by Borrower in accordance with, Section 11 of this Agreement and that service so made shall be deemed completed upon the earlier to occur of Borrower's actual receipt thereof or three (3) days after deposit in the U.S. mails, proper postage prepaid.

**TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, BORROWER AND LENDER EACH WAIVE THEIR RIGHT TO A JURY TRIAL OF ANY CLAIM OR CAUSE OF ACTION ARISING OUT OF OR BASED UPON THIS AGREEMENT, THE LOAN DOCUMENTS OR ANY CONTEMPLATED TRANSACTION, INCLUDING CONTRACT, TORT, BREACH OF DUTY AND ALL OTHER CLAIMS. THIS WAIVER IS A MATERIAL INDUCEMENT FOR BOTH PARTIES TO ENTER INTO THIS AGREEMENT. EACH PARTY HAS REVIEWED THIS WAIVER WITH ITS COUNSEL.**

This Section 12 shall survive the termination of this Agreement.

### **13      GENERAL PROVISIONS**

**13.1      Termination Prior to Maturity Date; Survival.** All covenants, representations and warranties made in this Agreement continue in full force until this Agreement has terminated pursuant to its terms and all Obligations have been satisfied. Those obligations that are expressly specified in this Agreement as surviving this Agreement's termination shall continue to survive notwithstanding this Agreement's termination.

**13.2      Successors and Assigns.** This Agreement binds and is for the benefit of the successors and permitted assigns of each party. Borrower may not assign this Agreement or any rights or obligations under it without Lender's prior written consent (which may be granted or withheld in Lender's sole discretion). Lender has the right, in consultation with but without the consent of Borrower, to sell, transfer, assign, negotiate, or grant participation in all or any part of, or any interest in, Lender's obligations, rights, and benefits under this Agreement and the other Loan Documents; provided that Lender shall not make any such assignment to (A) to any natural person, (B) to the extent a list of disqualified lenders is delivered by Borrower to Lender prior to any such assignment, to such disqualified lenders).

**13.3      Indemnification.** Borrower agrees to indemnify, defend and hold Lender and its directors, officers, employees, agents, attorneys, or any other Person affiliated with or representing Lender (each, an "**Indemnified Person**") harmless against: (i) all obligations, demands, claims, and liabilities (collectively, "**Claims**") claimed or asserted by any other party in connection with the transactions contemplated by the Loan Documents; and (ii) all losses or expenses (including Lender Expenses) in any way suffered, incurred, or paid by such Indemnified Person as a result of, following from, consequential to, or arising from transactions between Lender and Borrower (including reasonable attorneys' fees and expenses), except for Claims and/or losses directly caused by such Indemnified Person's gross negligence or willful misconduct.

This Section 13.3 shall survive until all statutes of limitation with respect to the Claims, losses, and expenses for which indemnity is given shall have run.

**13.4      Time of Essence.** Time is of the essence for the performance of all Obligations in this Agreement.

**13.5      Severability of Provisions.** Each provision of this Agreement is severable from every other provision in determining the enforceability of any provision.

**13.6      [Reserved.]**

**13.7      Amendments in Writing; Waiver; Integration.** No purported amendment or modification of any Loan Document, or waiver, discharge or termination of any obligation under any Loan Document, shall be enforceable or admissible unless, and only to the extent, expressly set forth in a writing signed by the party against which enforcement or admission is sought. Without limiting the generality of the foregoing, no oral promise or statement, nor any action, inaction, delay, failure to require performance or course of conduct shall operate as, or evidence, an amendment, supplement or waiver or have any other effect on any Loan Document. Any waiver granted shall be limited to the specific circumstance expressly described in it, and shall not apply to any subsequent or other circumstance, whether similar or dissimilar, or give rise to, or evidence, any obligation or commitment to grant any further waiver. The Loan Documents represent the entire agreement about this subject matter and supersede prior negotiations or agreements. All prior agreements, understandings, representations, warranties, and negotiations between the parties about the subject matter of the Loan Documents merge into the Loan Documents.

**13.8 Counterparts.** This Agreement may be executed in any number of counterparts and by different parties on separate counterparts, each of which, when executed and delivered, is an original, and all taken together, constitute one Agreement.

**13.9 Confidentiality.** In handling any confidential information, Lender shall exercise the same degree of care that it exercises for its own proprietary information, but disclosure of information may be made: (a) to Lender's Subsidiaries or Affiliates (such Subsidiaries and Affiliates, together with Lender, collectively, "**Lender Entities**"); (b) to prospective transferees or purchasers of any interest in the Loan (provided, however, Lender shall use its best efforts to obtain any prospective transferee's or purchaser's agreement to the terms of this provision); (c) as required by law, regulation, subpoena, or other order; (d) to Lender's regulators or as otherwise required or requested in connection with Lender's examination or audit; (e) as Lender considers appropriate in exercising remedies under the Loan Documents; and (f) to third-party service providers of Lender so long as such service providers have executed a confidentiality agreement with Lender with terms no less restrictive than those contained herein. Confidential information does not include information that is either: (i) in the public domain or in Lender's possession when disclosed to Lender, or becomes part of the public domain (other than as a result of its disclosure by Lender in violation of this Agreement) after disclosure to Lender; or (ii) disclosed to Lender by a third party, if Lender does not know that the third party is prohibited from disclosing the information. Lender acknowledges that it is aware that the United States securities laws prohibit any person who has material non-public information about a company from purchasing or selling securities of such company, or from communicating such information to any other person under circumstances in which it is reasonably foreseeable that such person is likely to purchase or sell such securities.

Lender Entities may use anonymous forms of confidential information for aggregate datasets, for analyses or reporting, and for any other uses not expressly prohibited in writing by Borrower. The provisions of the immediately preceding sentence shall survive termination of this Agreement.

**13.10 Attorneys' Fees, Costs and Expenses.** In any action or proceeding between Borrower and Lender arising out of or relating to the Loan Documents, Lender shall be entitled to recover its reasonable attorneys' fees and other costs and expenses incurred, in addition to any other relief to which it may be entitled.

**13.11 Electronic Execution of Documents.** The words "execution," "signed," "signature" and words of like import in any Loan Document shall be deemed to include electronic signatures or the keeping of records in electronic form, each of which shall be of the same legal effect, validity and enforceability as a manually executed signature or the use of a paper-based recordkeeping systems, as the case may be, to the extent and as provided for in any applicable law, including, without limitation, any state law based on the Uniform Electronic Transactions Act.

**13.12 Captions.** The headings used in this Agreement are for convenience only and shall not affect the interpretation of this Agreement.

**13.13 Construction of Agreement.** The parties mutually acknowledge that they and their attorneys have participated in the preparation and negotiation of this Agreement. In cases of uncertainty this Agreement shall be construed without regard to which of the parties caused the uncertainty to exist.

**13.14 Relationship.** The relationship of the parties to this Agreement is determined solely by the provisions of this Agreement. The parties do not intend to create any agency, partnership, joint venture, trust, fiduciary or other relationship with duties or incidents different from those of parties to an arm's-length contract.

**13.15 Third Parties.** Nothing in this Agreement, whether express or implied, is intended to: (a) confer any benefits, rights or remedies under or by reason of this Agreement on any persons other than the express parties to it and their respective permitted successors and assigns; (b) relieve or discharge the obligation or liability of any person not an express party to this Agreement; or (c) give any person not an express party to this Agreement any right of subrogation or action against any party to this Agreement.

## 14 DEFINITIONS

**14.1 Definitions.** As used in the Loan Documents, the word “shall” is mandatory, the word “may” is permissive, the word “or” is not exclusive, the words “includes” and “including” are not limiting, the singular includes the plural, and numbers denoting amounts that are set off in brackets are negative. As used in this Agreement, the following capitalized terms have the following meanings:

“**Account**” is any “account” as defined in the Code with such additions to such term as may hereafter be made, and includes, without limitation, all accounts receivable and other sums owing to Borrower.

“**Account Debtor**” is any “account debtor” as defined in the Code with such additions to such term as may hereafter be made.

“**Affiliate**” is, with respect to any Person, each other Person that owns or controls directly or indirectly the Person, any Person that controls or is controlled by or is under common control with the Person, and each of that Person’s senior executive officers, directors, partners and, for any Person that is a limited liability company, that Person’s managers and members.

“**Agreement**” is defined in the preamble hereof.

“**Asset Sale Proceeds**” means any cash payments or proceeds received by Borrower or any of its Subsidiaries in connection with the Transfer of any asset other than sales of inventory in the ordinary course of business.

“**Bankruptcy Code**” is Title 11 of the United States Code entitled “Bankruptcy”.

“**Borrower**” is defined in the preamble hereof.

“**Borrower’s Books**” are all Borrower’s books and records including ledgers, federal and state tax returns, records regarding Borrower’s assets or liabilities, the Collateral, business operations or financial condition, and all computer programs or storage or any equipment containing such information.

“**Business Day**” is any day that is not a Saturday, Sunday or a day on which Lender is closed.

“**Cash Equivalents**” means (a) marketable direct obligations issued or unconditionally guaranteed by the United States or any agency or any State thereof having maturities of not more than one (1) year from the date of acquisition; (b) commercial paper maturing no more than one (1) year after its creation and having the highest rating from either Standard & Poor’s Ratings Group or Moody’s Investors Service, Inc.; (c) Lender’s certificates of deposit issued maturing no more than one (1) year after issue; and (d) money market funds at least ninety-five percent (95%) of the assets of which constitute Cash Equivalents of the kinds described in clauses (a) through (c) of this definition.

“**Change in Control**” means (a) at any time, any “person” or “group” (as such terms are used in Sections 13(d) and 14(d) of the Securities Exchange Act of 1934, as amended (the “*Exchange Act*”), shall become, or obtain rights (whether by means or warrants, options or otherwise) to become, the “beneficial owner” (as defined in Rules 13(d)-3 and 13(d)-5 under the Exchange Act), directly or indirectly, of twenty-five percent (25%) or more of the ordinary voting power for the election of directors of Borrower (determined on a fully diluted basis) other than by the sale of Borrower’s equity securities in a public offering; (b) during any period of 12 consecutive months, a majority of the members of the board of directors or other equivalent governing body of Borrower cease to be composed of individuals (i) who were members of that board or equivalent governing body on the first day of such period, (ii) whose election or nomination to that board or equivalent governing body was approved by individuals referred to in clause (i) above constituting at the time of such election or nomination at least a majority of that board or equivalent governing body or (iii) whose election or nomination to that board or other equivalent governing body was approved by individuals referred to in clauses (i) and (ii) above constituting at the time of such election or nomination at least a majority of that board or equivalent governing body; or (c) at any time, Borrower shall cease to own and control, of record and beneficially, directly or indirectly, one hundred percent (100%) of each class of outstanding capital stock of each Subsidiary of Borrower free and clear of all Liens (except Liens created by the Loan Documents) other than the sale of Surefly, Inc. in accordance with the terms of this Agreement.

“**Claims**” is defined in Section 13.3.

“**Code**” is the Uniform Commercial Code, as the same may, from time to time, be enacted and in effect in the State of California; provided, that, to the extent that the Code is used to define any term herein or in any Loan Document and such term is defined differently in different Articles or Divisions of the Code, the definition of such term contained in Article or Division 9 shall govern; provided further, that in the event that, by reason of mandatory provisions of law, any or all of the attachment, perfection, or priority of, or remedies with respect to, Lender’s Lien on any Collateral is governed by the Uniform Commercial Code in effect in a jurisdiction other than the State of California, the term “**Code**” shall mean the Uniform Commercial Code as enacted and in effect in such other jurisdiction solely for purposes of the provisions thereof relating to such attachment, perfection, priority, or remedies and for purposes of definitions relating to such provisions.

“**Collateral**” has the meaning given to such term in the Guarantee and Collateral Agreement.

“**Collateral Account**” is any Deposit Account, Securities Account, or Commodity Account.

“**Commodity Account**” is any “commodity account” as defined in the Code with such additions to such term as may hereafter be made.

“**Compliance Certificate**” is that certain certificate in the form attached hereto as Exhibit A.

“**Contingent Obligation**” is, for any Person, any direct or indirect liability, contingent or not, of that Person for (a) any indebtedness, lease, dividend, letter of credit or other obligation of another such as an obligation, in each case, directly or indirectly guaranteed, endorsed, co-made, discounted or sold with recourse by that Person, or for which that Person is directly or indirectly liable; (b) any obligations for undrawn letters of credit for the account of that Person; and (c) all obligations from any interest rate, currency or commodity swap agreement, interest rate cap or collar agreement, or other agreement or arrangement designated to protect a Person against fluctuation in interest rates, currency exchange rates or commodity prices; but “Contingent Obligation” does not include endorsements in the ordinary course of business. The amount of a Contingent Obligation is the stated or determined amount of the primary obligation for which the Contingent Obligation is made or, if not determinable, the maximum reasonably anticipated liability for it determined by the Person in good faith; but the amount may not exceed the maximum of the obligations under any guarantee or other support arrangement.

“**Control Agreement**” is any control agreement entered into among the depository institution at which Borrower maintains a Deposit Account or the securities intermediary or commodity intermediary at which Borrower maintains a Securities Account or a Commodity Account, Borrower, and Lender pursuant to which Lender obtains control (within the meaning of the Code) over such Deposit Account, Securities Account, or Commodity Account.

“**Default Rate**” is defined in Section 2.2(b).

“**Deposit Account**” is any “deposit account” as defined in the Code with such additions to such term as may hereafter be made.

“**Dollars**,” “**dollars**” or use of the sign “**\$**” means only lawful money of the United States and not any other currency, regardless of whether that currency uses the “**\$**” sign to denote its currency or may be readily converted into lawful money of the United States.

“**Effective Date**” is defined in the preamble hereof.

“**Equipment**” is all “equipment” as defined in the Code with such additions to such term as may hereafter be made, and includes without limitation all machinery, fixtures, goods, vehicles (including motor vehicles and trailers), and any interest in any of the foregoing.



“**Event of Default**” is defined in Section 8.

“**Exchange Act**” is the Securities Exchange Act of 1934, as amended.

“**GAAP**” is generally accepted accounting principles set forth in the opinions and pronouncements of the Accounting Principles Board of the American Institute of Certified Public Accountants and statements and pronouncements of the Financial Accounting Standards Board or in such other statements by such other Person as may be approved by a significant segment of the accounting profession, which are applicable to the circumstances as of the date of determination.

“**General Intangibles**” is all “general intangibles” as defined in the Code in effect on the date hereof with such additions to such term as may hereafter be made, and includes without limitation, all intellectual property, claims, income and other tax refunds, security and other deposits, payment intangibles, contract rights, options to purchase or sell real or personal property, rights in all litigation presently or hereafter pending (whether in contract, tort or otherwise), insurance policies (including without limitation key man, property damage, and business interruption insurance), payments of insurance and rights to payment of any kind.

“**Governmental Approval**” is any consent, authorization, approval, order, license, franchise, permit, certificate, accreditation, registration, filing or notice, of, issued by, from or to, or other act by or in respect of, any Governmental Authority.

“**Governmental Authority**” is any nation or government, any state or other political subdivision thereof, any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative functions of or pertaining to government, any securities exchange and any self-regulatory organization.

“**Guarantee and Collateral Agreement**” is that certain Guarantee and Collateral Agreement dated as of the Effective Date by Borrower, its Subsidiaries and such other grantors party thereto from time to time, as it may be amended, restated or otherwise modified from time to time.

“**Indebtedness**” is (a) indebtedness for borrowed money or the deferred price of property or services, such as reimbursement and other obligations for surety bonds and letters of credit, (b) obligations evidenced by notes, bonds, debentures or similar instruments, (c) capital lease obligations, and (d) Contingent Obligations.

“**Indemnified Person**” is defined in Section 13.3.

“**Insolvency Proceeding**” is any proceeding by or against any Person under the United States Bankruptcy Code, or any other bankruptcy or insolvency law, including assignments for the benefit of creditors, compositions, extensions generally with its creditors, or proceedings seeking reorganization, arrangement, or other similar relief.

“**Insurance Proceeds**” means any cash payments or proceeds received by Borrower or any of its Subsidiaries (a) under any insurance policy (but expressly excluding any business interruption insurance policy) in respect of a covered loss thereunder or (b) as a result of the taking of any assets of Borrower or any of its Subsidiaries by any Person pursuant to the power of eminent domain, condemnation or otherwise, or pursuant to a sale of any such assets to a purchaser with such power under threat of such a taking.

“**Investment**” is any beneficial ownership interest in any Person (including stock, partnership interest or other securities), and any loan, advance or capital contribution to any Person.

“**Lender**” is defined in the preamble hereof.

“**Lender Entities**” is defined in Section 13.9.

“**Lender Expenses**” are all audit fees and expenses, costs, and expenses (including attorneys’ fees and expenses) for preparing, amending, negotiating, administering, defending and enforcing the Loan Documents (including, without limitation, those incurred in connection with appeals or Insolvency Proceedings) or otherwise incurred with respect to Borrower.

“**Lien**” is a claim, mortgage, deed of trust, levy, charge, pledge, security interest or other encumbrance of any kind, whether voluntarily incurred or arising by operation of law or otherwise against any property.

“**Loan**” is defined in Section 2.1.1(a).

“**Loan Documents**” are, collectively, this Agreement, the Guarantee and Collateral Agreement, any Mortgage, the Warrant, and any schedules, exhibits, certificates, notices, and any other documents related to any of the foregoing, any subordination agreement, any note, or notes or guaranties executed by Borrower or any other Loan Party, any collateral documents granting or perfecting a Lien in favor of Lender to secure the Obligations and any other present or future agreement by Borrower with or for the benefit of Lender in connection with this Agreement, all as amended, restated, or otherwise modified.

“**Loan Party**” is Borrower, each of its Subsidiaries, and each other Person from time to time party to the Guarantee and Collateral Agreement as a guarantor.

“**Material Adverse Change**” is (a) a material impairment in the perfection or priority of Lender’s Lien in the Collateral or in the value of such Collateral; (b) a material adverse change in the business, operations, or condition (financial or otherwise) of Borrower or any other Loan Party; or (c) a material impairment of the prospect of repayment of any portion of the Obligations.

“**Maturity Date**” is July 6, 2019.

“**Monthly Financial Statements**” is defined in Section 6.2(a).

“**Mortgage**” is one or more mortgages, deeds of trust, immovable hypothecs, or deeds to secure debt, executed and delivered by a Loan Party or one of its Subsidiaries in favor of Lender, in form and substance reasonably satisfactory to Lender, that encumber the Real Property.

“**Mortgage Policy**” is defined in Section 6.12(g).

“**Obligations**” are Borrower’s obligations to pay when due any debts, principal, interest, fees, Lender Expenses, and other amounts Borrower owes Lender now or later, whether under this Agreement, the other Loan Documents, or otherwise, and including interest accruing after Insolvency Proceedings begin, and to perform Borrower’s duties under the Loan Documents.

“**Operating Documents**” are, for any Person, such Person’s formation documents, as certified by the Secretary of State (or equivalent agency) of such Person’s jurisdiction of organization on a date that is no earlier than thirty (30) days prior to the Effective Date, and, (a) if such Person is a corporation, its bylaws in current form, (b) if such Person is a limited liability company, its limited liability company agreement (or similar agreement), and (c) if such Person is a partnership, its partnership agreement (or similar agreement), each of the foregoing with all current amendments or modifications thereto.

“**Permitted Indebtedness**” is:

- (a) Borrower’s Indebtedness to Lender under this Agreement and the other Loan Documents;
- (b) Indebtedness existing on the Effective Date and shown on the Schedule 7.4;
- (c) unsecured Indebtedness to trade creditors incurred in the ordinary course of business;
- (d) Indebtedness incurred as a result of endorsing negotiable instruments received in the ordinary course of business; and

- (e) Indebtedness secured by Liens permitted under clauses (a) and (c) of the definition of “Permitted Liens” hereunder.

**“Permitted Investments”** are:

- (a) Investments (including, without limitation, Subsidiaries) existing on the Effective Date and shown on the Schedule 7.7;
- (b) Investments consisting of Cash Equivalents;
- (c) Investments consisting of the endorsement of negotiable instruments for deposit or collection or similar transactions in the ordinary course of Borrower;
- (d) Investments accepted in connection with Transfers permitted by Section 7.1;
- (e) Investments consisting of the creation of a Subsidiary for the purpose of consummating a merger transaction permitted by Section 7.3 of this Agreement, which is otherwise a Permitted Investment;
- (f) Investments (i) by Borrower in Subsidiaries not to exceed Fifty Thousand Dollars (\$50,000) in the aggregate in any fiscal year and (ii) by Subsidiaries in other Subsidiaries not to exceed Fifty Thousand Dollars (\$50,000) in the aggregate in any fiscal year or in Borrower;
- (g) Investments (including debt obligations) received in connection with the bankruptcy or reorganization of customers or suppliers and in settlement of delinquent obligations of, and other disputes with, customers or suppliers arising in the ordinary course of business; and
- (h) Investments consisting of notes receivable of, or prepaid royalties and other credit extensions, to customers and suppliers who are not Affiliates, in the ordinary course of business; provided that this paragraph (h) shall not apply to Investments of Borrower in any Subsidiary.

**“Permitted Liens”** are:

- (a) Liens existing on the Effective Date and shown on Schedule 7.5 or arising under this Agreement and the other Loan Documents;
- (b) Liens for taxes, fees, assessments or other government charges or levies, either (i) not due and payable or (ii) being contested in good faith and for which Borrower maintains adequate reserves on its Books, provided that no notice of any such Lien has been filed or recorded under the Internal Revenue Code of 1986, as amended, and the Treasury Regulations adopted thereunder;
- (c) purchase money Liens (i) on Equipment acquired or held by Borrower incurred for financing the acquisition of the Equipment securing no more than Fifty Thousand Dollars (\$50,000) in the aggregate amount outstanding, or (ii) existing on Equipment when acquired, if the Lien is confined to the property and improvements and the proceeds of the Equipment;
- (d) Liens of carriers, warehousemen, suppliers, or other Persons that are possessory in nature arising in the ordinary course of business so long as such Liens attach only to Inventory, securing liabilities in the aggregate amount not to exceed Fifty Thousand Dollars (\$50,000), and which are not delinquent or remain payable without penalty or which are being contested in good faith and by appropriate proceedings which proceedings have the effect of preventing the forfeiture or sale of the property subject thereto;

- (e) Liens to secure payment of workers' compensation, employment insurance, old-age pensions, social security and other like obligations incurred in the ordinary course of business;
- (f) Liens incurred in the extension, renewal or refinancing of the indebtedness secured by Liens described in (a) through (c), but any extension, renewal or replacement Lien must be limited to the property encumbered by the existing Lien and the principal amount of the indebtedness may not increase;
- (g) leases or subleases of real property granted in the ordinary course of Borrower's business (or, if referring to another Person, in the ordinary course of such Person's business), and leases, subleases, non-exclusive licenses or sublicenses of personal property (other than intellectual property) granted in the ordinary course of Borrower's business (or, if referring to another Person, in the ordinary course of such Person's business), if the leases, subleases, licenses and sublicenses do not prohibit granting Lender a security interest therein; and
- (h) Liens arising from attachments or judgments, orders, or decrees in circumstances not constituting an Event of Default under Sections 8.3 or 8.6.

**"Person"** is any individual, sole proprietorship, partnership, limited liability company, joint venture, company, trust, unincorporated organization, association, corporation, institution, public benefit corporation, firm, joint stock company, estate, entity or government agency.

**"Real Property"** means any estates or interests in real property now owned or hereafter acquired by any Loan Party or one of its Subsidiaries and the improvements thereto.

**"Requirement of Law"** is as to any Person, the organizational or governing documents of such Person, and any law (statutory or common), treaty, rule or regulation or determination of an arbitrator or a court or other Governmental Authority, in each case applicable to or binding upon such Person or any of its property or to which such Person or any of its property is subject.

**"Responsible Officer"** is any of the Chief Executive Officer, President, Chief Financial Officer and Controller of Borrower.

**"ROFR"** is defined in Section 10.1.

**"ROFR Financing"** is defined in Section 10.1.

**"Securities Account"** is any "securities account" as defined in the Code with such additions to such term as may hereafter be made.

**"Subsidiary"** is, as to any Person, a corporation, partnership, limited liability company or other entity of which shares of stock or other ownership interests having ordinary voting power (other than stock or such other ownership 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 corporation, partnership or other entity are at the time owned, or the management of which is otherwise controlled, directly or indirectly through one or more intermediaries, or both, by such Person. Unless the context otherwise requires, each reference to a Subsidiary herein shall be a reference to a Subsidiary of Borrower.

**"Transfer"** is defined in Section 7.1.

**"Warrant"** is defined in Section 6.12(a).

*[Balance of Page Intentionally Left Blank]*

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the Effective Date.

BORROWER:

**WORKHORSE GROUP INC.**

By \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

LENDER:

\_\_\_\_\_

By \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

[Signature page to Loan Agreement]

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**EXHIBIT A**

**COMPLIANCE CERTIFICATE**

TO: \_\_\_\_\_

Date: \_\_\_\_\_, \_\_\_\_

FROM: WORKHORSE GROUP INC.

The undersigned authorized officer of WORKHORSE GROUP INC. (“Borrower”) certifies that under the terms and conditions of the Loan Agreement between Borrower and Lender (the “Agreement”):

(1) Borrower is in complete compliance for the period ending \_\_\_\_\_ with all required covenants except as noted below; (2) there are no Events of Default; (3) all representations and warranties in the Agreement are true and correct in all material respects on this date except as noted below; provided, however, that such materiality qualifier shall not be applicable to any representations and warranties that already are qualified or modified by materiality in the text thereof; and provided, further that those representations and warranties expressly referring to a specific date shall be true, accurate and complete in all material respects as of such date; (4) Borrower, and each of its Subsidiaries, has timely filed all required tax returns and reports, and Borrower has timely paid all foreign, federal, state and local taxes, assessments, deposits and contributions owed by Borrower except as otherwise permitted pursuant to the terms of Section 5.8 of the Agreement; and (5) no Liens have been levied or claims made against Borrower or any of its Subsidiaries relating to unpaid employee payroll or benefits of which Borrower has not previously provided written notification to Lender.

Attached are the required documents supporting the certification. The undersigned certifies that these are prepared in accordance with GAAP consistently applied from one period to the next except as explained in an accompanying letter or footnotes. The undersigned acknowledges that no borrowings may be requested at any time or date of determination that Borrower is not in compliance with any of the terms of the Agreement, and that compliance is determined not just at the date this certificate is delivered. Capitalized terms used but not otherwise defined herein shall have the meanings given them in the Agreement.

**Please indicate compliance status by circling Yes/No under “Complies” column.**

<b><u>Reporting Covenants</u></b>	<b><u>Required</u></b>	<b><u>Complies</u></b>
Monthly financial statements with Compliance Certificate	Monthly within 30 days after the last day of each month	Yes No
Annual financial statement	FYE within 180 days	Yes No
10-Q, 10-K and 8-K	Within 5 days after filing with SEC	Yes No
Annual Operating Budget and Financial Projections	Annually within 30 days of year end	Yes No

**Other Matters**

Have there been any amendments of or other changes to the capitalization table of Borrower and to the Operating Documents of Borrower or any of its Subsidiaries? If yes, provide copies of any such amendments or changes with this Compliance Certificate. Yes No

The following are the exceptions with respect to the certification above: (If no exceptions exist, state "No exceptions to note.")

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**WORKHORSE GROUP INC.**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

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**Schedule 2.1.1**

**Use of Proceeds**

1. \$2,875,000 repayment in full of outstanding Senior Secured Notes of Hudson Bay Fund LLC;
  2. \$397,472.20 repayment in full of outstanding Senior Secured Notes of Empery Tax Efficient LP;
  3. \$1,432,175.50 repayment in full of outstanding Senior Secured Notes of Empery Tax Efficient II LP;
  4. \$1,045,352.30 repayment in full of Senior Secured Notes of Empery Asset Master Ltd.; and
  5. \$350,000 repayment in full of note payable to former owner of the building located at 100 Commerce Drive, Loveland, OH 45140.
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## **Schedule 5.4**

### **Litigation**

In May 2017, Autokinetics, Inc. ("AK") filed a complaint against the Company in the Circuit Court for the County of Oakland, State of Michigan (File No. 2017-158748-CB). AK claims Breach of Contract and Unjust Enrichment/Quantum Meruit and is seeking damages in the amount of \$2,098,550. In June 2017, the Company filed an Answer as well as a Counterclaim against AK and J. Bruce Emmons, President of AK, for Breach of Contract, Unjust Enrichment, Promissory Estoppel, Conversion and Statutory Conversion. The Company intends to vigorously defend against this action and pursue all available legal remedies. The Company believes it has substantial legal and factual defenses to the plaintiffs' claims. In June 2018, pursuant to a case evaluation, all parties agreed to settle the matter whereby Workhorse will pay AK \$250,000 and AK will pay Workhorse \$50,000. The parties are working on entering a settlement agreement.

In November 2017, Jeffrey Esfeld filed a complaint against the Company in the Superior Court of the State of Washington, County of King seeking unpaid wages and commissions. The case has been removed to the Federal District Court for the Western District of Washington (File No. 17-2-29157-9 SEA). The Company intends to vigorously defend against this action and pursue all available legal remedies. The Company believes it has substantial legal and factual defenses to the plaintiff's claims.

In June 2018, Precision Manufacturing Company Inc. filed a complaint in the Common Pleas Court of Montgomery County, Ohio claiming breach of contract, unjust enrichment and action on account and seeking damages of approximately \$132,000. The Company intends to file a response in the near future. The Company intends to vigorously defend against this action and pursue all available legal remedies.

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**Schedule 7.4**

Existing Indebtedness

1. The principal amount of \$1,770,000 owing to Spring Valley Bank pursuant to that certain Mortgage secured by the Company's facility located at 100 Commerce Drive, Loveland, Ohio 45140.
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**Schedule 7.5**

Existing Liens

1. The Company and Spring Valley Bank entered into that certain Mortgage securing a loan in the principal amount of \$1.77m secured by the Company's facility located at 100 Commerce Drive, Loveland, Ohio 45140.
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**Schedule 7.7**

**Existing Investments**

Holder	Issuer	Class of Capital Stock	Certificate No.	No. of Shares
Workhorse Group Inc.	Workhorse Technologies Inc.	Common Stock	N/A	1,000
Workhorse Group Inc.	Workhorse Properties Inc.	Common Stock	N/A	1,000
Workhorse Group Inc.	Workhorse Motor Works Inc.	Common Stock	N/A	200
Workhorse Technologies Inc.	Surefly, Inc.	Common Stock	1	1,000

**GUARANTEE AND COLLATERAL AGREEMENT**

THIS **GUARANTEE AND COLLATERAL AGREEMENT** (this “**Agreement**”), dated as of July 6, 2018, made by **WORKHORSE GROUP INC.**, a Nevada corporation (“**Borrower**”), each of its Subsidiaries signatory hereto (together with any other entity that may become a party hereto as provided herein, the “**Guarantors**” and each, a “**Guarantor**” and together with Borrower, the “**Grantors**” and each, a “**Grantor**”), in favor of \_\_\_\_\_, a Cayman Islands exempted limited partnership (“**Lender**”), as the lender under the Loan Agreement, dated as of the date hereof (as amended, amended and restated, supplemented, restructured or otherwise modified, renewed or replaced from time to time, the “**Loan Agreement**”), between Borrower and Lender.

**INTRODUCTORY STATEMENTS**

WHEREAS, Guarantors and Borrower are members of an affiliated group of companies;

WHEREAS, the Borrower and the Guarantors are engaged in related businesses, and each Grantor derives substantial direct and indirect benefit from the extensions of credit under the Loan Agreement; and

WHEREAS, it is a condition precedent to the extensions of credit under the Loan Agreement that the Grantors shall have executed and delivered this Agreement to Lender.

NOW, THEREFORE, in consideration of the above premises, the parties hereto hereby agree as follows:

**SECTION 1. DEFINED TERMS****1.1. Definitions.**

(a) Unless otherwise defined herein, terms defined in the Loan Agreement and used herein shall have the meanings given to them in the Loan Agreement, and the following terms are used herein as defined in the Code: Accounts, Certificated Security, Chattel Paper, Commercial Tort Claims, Commodities Accounts, Documents, Equipment, Farm Products, Fixtures, General Intangibles, Goods, Instruments, Inventory, Letter-of-Credit Rights, Securities Accounts and Supporting Obligations.

(b) The following terms shall have the following meanings:

“**Agreement**” is defined in the preamble hereto.

“**Borrower Obligations**” are the Obligations (as such term is defined in the Loan Agreement) of Borrower arising out of the Loan Agreement and the other Loan Documents.

“**Collateral**” is defined in Section 3.

“**Discharge of Obligations**” is defined in Section 2.1(d).

“**Guarantor Obligations**” are the collective reference to each Guarantor’s obligations to pay when due any debts, principal, interest, fees, Lender Expenses, and other amounts Guarantor owes Lender now or later, whether under this Agreement, the other Loan Documents, or otherwise, and including interest accruing after Insolvency Proceedings begin and debts, liabilities, or obligations of Guarantor assigned to Lender, and to perform Guarantor’s duties under the Loan Documents to which it is a party.

“**Investment Accounts**” are the collective reference to the Securities Accounts, Commodities Accounts and Deposit Accounts.

“**Investment Property**” is the collective reference to (i) all “investment property” as such term is defined in Section 9-102(a)(49) of the Code and (ii) whether or not constituting “investment property” as so defined, all Pledged Notes and all Pledged Stock.

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“**Issuers**” are the collective reference to each issuer of any Investment Property.

“**Obligations**” are (i) in the case of Borrower, the Borrower Obligations, and (ii) in the case of each Guarantor, its Guarantor Obligations.

“**Pledged Notes**” are all promissory notes listed on Schedule 2 and all other promissory notes issued to or held by any Grantor.

“**Pledged Stock**” is the equity interests listed on Schedule 2, together with any other shares, stock certificates, options, interests or rights of any nature whatsoever in respect of the equity interests of any (i) Subsidiary of the Guarantor, or (ii) Person that is not a Subsidiary of the Guarantor that may be issued or granted to, or held by, any Grantor while this Agreement is in effect.

“**Proceeds**” are all “proceeds” as such term is defined in Section 9-102(a)(64) of the Code and, in any event, shall include, without limitation, all dividends or other income from the Investment Property, collections thereon or distributions or payments with respect thereto.

“**Receivable**” is any right to payment for goods sold or leased or for services rendered, whether or not such right is evidenced by an Instrument or Chattel Paper and whether or not it has been earned by performance (including, without limitation, any Account).

## 1.2. Other Definitional Provisions.

(a) The words “hereof,” “herein,” “hereto” and “hereunder” and words of similar import when used in this Agreement shall refer to this Agreement as a whole and not to any particular provision of this Agreement, and Section and Schedule references are to the Sections and Schedules of this Agreement unless otherwise specified.

(b) The meanings given to terms defined herein shall be equally applicable to both the singular and plural forms of such terms.

(c) Where the context requires, terms relating to the Collateral or any part thereof, when used in relation to a Grantor, shall refer to such Grantor’s Collateral or the relevant part thereof.

## SECTION 2. GUARANTEE

### 2.1. Guarantee.

(a) Each of the Guarantors hereby, jointly and severally, unconditionally and irrevocably, guarantees to Lender and its successors, indorsees, transferees and assigns, the prompt and complete payment and performance by Borrower when due (whether at the stated maturity, by acceleration or otherwise) of the Borrower Obligations.

(b) Anything herein or in any other Loan Document to the contrary notwithstanding, the maximum liability of each Guarantor hereunder and under the other Loan Documents shall in no event exceed the amount which can be guaranteed by such Guarantor under applicable federal and state laws relating to the insolvency of debtors (after giving effect to the right of contribution established in Section 2.2).

(c) Each Guarantor agrees that the Borrower Obligations may at any time and from time to time exceed the amount of the liability of such Guarantor hereunder without impairing the guarantee contained in this Section 2 or affecting the rights and remedies of Lender hereunder.

(d) The guarantee contained in this Section 2 shall remain in full force and effect until all the Borrower Obligations and the obligations of each Guarantor under the guarantee contained in this Section 2 (in each case excluding inchoate indemnity obligations) shall have been satisfied by payment in full (the “**Discharge of Obligations**”), notwithstanding that from time to time during the term of the Loan Agreement the Borrower may be free from any Borrower Obligations.

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(e) No payment made by Borrower, any of the Guarantors, any other guarantor or any other Person or received or collected by Lender from Borrower, any of the Guarantors, any other guarantor or any other Person by virtue of any action or proceeding or any set-off or appropriation or application at any time or from time to time in reduction of or in payment of the Borrower Obligations shall be deemed to modify, reduce, release or otherwise affect the liability of any Guarantor hereunder which shall, notwithstanding any such payment (other than any payment made by such Guarantor in respect of the Borrower Obligations or any payment received or collected from such Guarantor in respect of the Borrower Obligations), remain liable for the Borrower Obligations up to the maximum liability of such Guarantor hereunder until the Discharge of Obligations.

**2.2. No Subrogation.** Notwithstanding any payment made by any Guarantor hereunder or any set-off or application of funds of any Guarantor by Lender, no Guarantor shall be entitled to be subrogated to any of the rights of Lender against Borrower or any other Guarantor or any collateral security or guarantee or right of offset held by Lender for the payment of the Borrower Obligations, nor shall any Guarantor seek or be entitled to seek any contribution or reimbursement from Borrower or any other Guarantor in respect of payments made by such Guarantor hereunder, in each case, until the Discharge of Obligations. If any amount shall be paid to any Guarantor on account of such subrogation rights at any time when all of the Borrower Obligations shall not have been paid in full, such amount shall be held by such Guarantor in trust for Lender, segregated from other funds of such Guarantor, and shall, forthwith upon receipt by such Guarantor, be turned over to Lender in the exact form received by such Guarantor (duly indorsed by such Guarantor to Lender, if required), to be applied in such order as set forth in Section 5.4 hereof irrespective of the occurrence or the continuance of any Event of Default.

**2.3. Amendments, etc. with respect to the Borrower Obligations.** Each Guarantor shall remain obligated hereunder notwithstanding that, without any reservation of rights against any Guarantor and without notice to or further assent by any Guarantor, any demand for payment of any of the Borrower Obligations made by Lender may be rescinded by Lender and any of the Borrower Obligations continued, and the Borrower Obligations, or the liability of any other Person upon or for any part thereof, or any collateral security or guarantee therefor or right of offset with respect thereto, may, from time to time, in whole or in part, be renewed, extended, amended, modified, accelerated, compromised, waived, surrendered or released by Lender, and the Loan Agreement and the other Loan Documents and any other documents executed and delivered in connection therewith may be amended, modified, supplemented or terminated, in whole or in part, as Lender may deem advisable from time to time, and any collateral security, guarantee or right of offset at any time held by Lender for the payment of the Borrower Obligations may be sold, exchanged, waived, surrendered or released. Lender shall not have any obligation to protect, secure, perfect or insure any Lien at any time held by it as security for the Borrower Obligations or for the guarantee contained in this Section 2 or any property subject thereto.

**2.4. Guarantee Absolute and Unconditional.** Each Guarantor waives any and all notice of the creation, renewal, extension or accrual of any of the Borrower Obligations and notice of or proof of reliance by Lender upon the guarantee contained in this Section 2 or acceptance of the guarantee contained in this Section 2; the Borrower Obligations, and any of them, shall conclusively be deemed to have been created, contracted or incurred, or renewed, extended, amended or waived, in reliance upon the guarantee contained in this Section 2; and all dealings between Borrower and any of the Guarantors, on the one hand, and Lender, on the other hand, likewise shall be conclusively presumed to have been had or consummated in reliance upon the guarantee contained in this Section 2. Each Guarantor waives diligence, presentment, protest, demand for payment and notice of default or nonpayment to or upon Borrower or any of the Guarantors with respect to the Borrower Obligations. Each Guarantor understands and agrees that the guarantee contained in this Section 2 shall be construed as a continuing, absolute and unconditional guarantee of payment without regard to (a) the validity or enforceability of the Loan Agreement or any other Loan Document, any of the Borrower Obligations or any other collateral security therefor or guarantee or right of offset with respect thereto at any time or from time to time held by Lender, (b) any defense, set-off or counterclaim (other than a defense of payment or performance) which may at any time be available to or be asserted by Borrower or any other Person against Lender, or (c) any other circumstance whatsoever (with or without notice to or knowledge of Borrower or such Guarantor) which constitutes, or might be construed to constitute, an equitable or legal discharge of Borrower for the Borrower Obligations, or of such Guarantor under the guarantee contained in this Section 2, in bankruptcy or in any other instance. When making any demand hereunder or otherwise pursuing its rights and remedies hereunder against any Guarantor, Lender may, but shall be under no obligation to, make a similar demand on or otherwise pursue such rights and remedies as it may have against Borrower, any other Guarantor or any other Person or against any collateral security or guarantee for the Borrower Obligations or any right of offset with respect thereto, and any failure by Lender to make any such demand, to pursue such other rights or remedies or to collect any payments from Borrower, any other Guarantor or any other Person or to realize upon any such collateral security or guarantee or to exercise any such right of offset, or any release of Borrower, any other Guarantor or any other Person or any such collateral security, guarantee or right of offset, shall not relieve any Guarantor of any obligation or liability hereunder, and shall not impair or affect the rights and remedies, whether express, implied or available as a matter of law, of Lender against any Guarantor. For the purposes hereof "demand" shall include the commencement and continuance of any legal proceedings.

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**2.5. Reinstatement.** The guarantee contained in this Section 2 shall continue to be effective, or be reinstated, as the case may be, if at any time payment, or any part thereof, of any of the Borrower Obligations is rescinded or must otherwise be restored or returned by Lender upon the insolvency, bankruptcy, dissolution, liquidation or reorganization of Borrower or any Guarantor, or upon or as a result of the appointment of a receiver, intervenor or conservator of, or trustee or similar officer for, Borrower or any Guarantor or any substantial part of its property, or otherwise, all as though such payments had not been made.

**2.6. Payments.** Each Guarantor hereby guarantees that payments hereunder will be paid to Lender without set-off or counterclaim in Dollars.

**2.7. Loan Agreement Covenants.** Each Guarantor agrees that, so long as any part of the Borrower Obligations shall remain unpaid, such Guarantor will, unless Lender shall otherwise consent in writing, perform or observe, and cause its Subsidiaries to perform or observe, all of the terms, covenants and agreements that the Loan Documents state that Borrower is to cause such Guarantor and its Subsidiaries to perform or observe.

### **SECTION 3. GRANT OF SECURITY INTEREST**

Each Grantor hereby grants to Lender a security interest in, all of the following property now owned or at any time hereafter acquired by such Grantor or in which such Grantor now has or at any time in the future may acquire any right, title or interest (collectively, the “**Collateral**”), as collateral security for the prompt and complete payment and performance when due (whether at the stated maturity, by acceleration or otherwise) of such Grantor’s Obligations:

- (a) all Accounts;
  - (b) all Chattel Paper;
  - (c) all Deposit Accounts;
  - (d) all Documents;
  - (e) all Equipment;
  - (f) all Fixtures;
  - (g) all General Intangibles;
  - (h) all Goods;
  - (i) all Instruments;
  - (j) all Intellectual Property;
  - (k) all Inventory;
  - (l) all Investment Property;
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- (m) all Letter-of-Credit Rights;
- (n) all other property not otherwise described above;
- (o) all books and records pertaining to the Collateral; and
- (p) to the extent not otherwise included, all Proceeds, Supporting Obligations and products of any and all of the foregoing and all collateral security and guarantees given by any Person with respect to any of the foregoing;

provided, however, that no United States intent-to-use trademark or service mark application shall be included in the Collateral to the extent that, and solely during the period in which, the grant of a security interest therein would impair the validity or enforceability of such intent-to-use trademark or service mark application under Federal law. After such period, each Grantor acknowledges that such interest in such trademark or service mark application shall be subject to a security interest in favor of Lender and shall be included in the Collateral.

#### **SECTION 4. REPRESENTATIONS, WARRANTIES AND COVENANTS**

To induce Lender to enter into the Loan Agreement and to induce the Lender to make extensions of credit to Borrower thereunder, each Grantor hereby represents, warrants and covenants to Lender that:

**4.1. Title; No Other Liens.** Except for the Liens permitted to exist on the Collateral by the Loan Agreement, such Grantor owns each item of the Collateral free and clear of any and all Liens or claims of others. No financing statement, fixture filing or other public notice with respect to all or any part of the Collateral is on file or of record or will be filed in any public office, except such as have been filed as permitted by the Loan Agreement.

**4.2. Priority of Liens.** The security interests granted to Lender pursuant to this Agreement are prior to all other Liens on the Collateral in existence on the date hereof except for unrecorded Liens permitted by the Loan Agreement which have priority over the Liens on the Collateral by operation of law. Each Grantor shall maintain the security interests of Lender created by this Agreement as perfected security interests having at least the priority described herein and shall take commercially reasonable measures with respect to the laws of such jurisdiction to defend such security interests against the claims and demands of all Persons whomsoever, subject to the rights of such Grantor under the Loan Documents to dispose of the Collateral. Such Grantor will furnish to Lender from time to time statements and schedules further identifying and describing the assets and property of such Grantor and such other reports in connection therewith as Lender may reasonably request, all in reasonable detail. At any time and from time to time, upon the written request of Lender, and at the sole expense of such Grantor, such Grantor will promptly and duly execute and deliver, and have recorded, such further instruments and documents and take such further actions as Lender may reasonably request for the purpose of obtaining or preserving the full benefits of this Agreement and of the rights and powers herein granted, including, without limitation, filing any financing or continuation statements under the Uniform Commercial Code (or other similar laws) in effect in any jurisdiction with respect to the security interests created hereby and taking any actions necessary to enable Lender to obtain "control" (within the meaning of the applicable Uniform Commercial Code) with respect thereto to the extent required hereunder.

**4.3. Jurisdiction of Organization; Chief Executive Office.** On the date hereof, such Grantor's jurisdiction of organization, identification number from the jurisdiction of organization (if any), and the location of such Grantor's chief executive office or sole place of business, as the case may be, are specified on Schedule 3.

**4.4. Inventory and Equipment.** On the date hereof (a) the Inventory and (b) the Equipment (other than mobile goods), in each case with an aggregate fair market value of at least \$100,000, are kept at the locations listed on Schedule 5. The Collateral is not in the possession of any third party bailee (such as a warehouse) except as otherwise provided in Schedule 5. None of the components of the Collateral shall be maintained at locations other than as provided in Schedule 5 hereto or as permitted pursuant to Section 7.2 of the Loan Agreement.

**4.5. Farm Products.** None of the Collateral constitutes, or is the Proceeds of, Farm Products.

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**4.6. Investment Property.** The shares of Pledged Stock pledged by such Grantor hereunder constitute all the issued and outstanding shares of all classes of the equity interests of each Issuer owned by such Grantor. All the shares of the Pledged Stock of each Subsidiary of such Grantor have been duly and validly issued and are fully paid and nonassessable. If such Grantor shall become entitled to receive or shall receive any certificate (including, without limitation, any certificate representing a dividend or a distribution in connection with any reclassification, increase or reduction of capital or any certificate issued in connection with any reorganization), option or rights in respect of the equity interests of any Issuer, whether in addition to, in substitution of, as a conversion of, or in exchange for, any shares of the Pledged Stock, or otherwise in respect thereof, such Grantor shall accept the same as the agent of Lender, hold the same in trust for Lender and deliver the same forthwith to Lender in the exact form received, duly indorsed by such Grantor to Lender, if required, together with an undated stock power covering such certificate duly executed in blank by such Grantor, to be held by Lender, subject to the terms hereof, as additional collateral security for the Obligations. In the case of each Grantor which is an Issuer, such Issuer agrees that it will be bound by the terms of this Agreement relating to the equity interests issued by it and will comply with such terms insofar as such terms are applicable to it.

**4.7. Investment Accounts.**

(a) Schedule 2 sets forth under the headings “Securities Accounts” and “Commodities Accounts”, respectively, all of the Securities Accounts and Commodities Accounts (each as defined in the UCC) in which each Grantor has an interest. Each Grantor, as applicable, is the sole entitlement holder of each such Securities Account and Commodities Account, and such Grantor has not consented to, and is not otherwise aware of, any Person (other than Lender) having “control” (within the meanings of Sections 8-106 and 9-106 of the UCC) over, or any other interest in, any such Securities Account or Commodity Account or any securities or other property credited thereto;

(b) Schedule 2 sets forth under the heading “Deposit Accounts” all of the Deposit Accounts in which each Grantor has an interest and each Grantor is the sole account holder of each such Deposit Account and such Grantor has not consented to, and is not otherwise aware of, any Person (other than Lender) having either sole dominion and control (within the meaning of common law) or “control” (within the meaning of Section 9-104 of the UCC) over, or any other interest in, any such Deposit Account or any money or other property deposited therein; and

(c) If any Investment Account or Securities Entitlement is not subject to Lender’s “control”, then such Grantor will obtain control agreements (in a form reasonably satisfactory to Lender) concurrently with opening such Investment Account or Securities Entitlement, as the case may be.

**4.8. Instruments.** If any amount payable under or in connection with any of the Collateral shall be or become evidenced by any individual Instrument (other than checks, drafts or other Instruments that will be promptly deposited in an Investment Account), Certificated Security or Chattel Paper, such Instrument, Certificated Security or Chattel Paper shall be promptly delivered to Lender, duly indorsed in a manner reasonably satisfactory to Lender, to be held as Collateral pursuant to this Agreement.

**4.9. Intellectual Property.** Schedule 5 lists all registrations and applications for Copyrights, Patents, Trademarks, in each case owned by such Grantor in its own name on the date hereof. Whenever such Grantor, either by itself or through any agent, employee, licensee or designee, elects to file an application for the registration of any Intellectual Property with the United States Patent and Trademark Office, the United States Copyright Office or any similar office or agency in any other country or any political subdivision thereof, such Grantor shall report such filing to Lender within 45 days after the last day of the fiscal quarter in which such filing occurs, or, in the case of registration of a copyright, not less than 1 day prior to such registration. Upon prior written request of Lender, such Grantor shall execute and deliver, and have recorded, any and all agreements, instruments, documents, and papers as Lender may reasonably request to evidence Lender’s security interest in any Copyright, Patent or Trademark of such Grantor.

**4.10. Loan Agreement Representations.** Each Grantor makes, for the benefit of Lender, each of the representations and warranties made in Section 5 of the Loan Agreement by Borrower as to Grantor, its assets, financial condition, operations, organization, legal status, business and the Loan Documents to which it is a party.

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## **SECTION 5. REMEDIAL PROVISIONS**

Each Grantor covenants and agrees with Lender that, from and after the date of this Agreement until the Discharge of Obligations:

**5.1. Certain Matters Relating to Receivables.** Lender hereby authorizes each Grantor to collect such Grantor's Receivables and Lender may curtail or terminate said authority at any time after the occurrence and during the continuance of an Event of Default. If required by Lender at any time after the occurrence and during the continuance of an Event of Default, any payments of Receivables, when collected by any Grantor, (i) shall be forthwith (and, in any event, within two Business Days) deposited by such Grantor in the exact form received, duly indorsed by such Grantor to Lender if required, in a Collateral Account over which Lender has control, and (ii) until so turned over, shall be held by such Grantor in trust for Lender, segregated from other funds of such Grantor. Lender in its own name or in the name of others may at any time after the occurrence and during the continuance of an Event of Default communicate with obligors under the Receivables to verify with them to Lender's satisfaction the existence, amount and terms of any Receivables. Upon the request of Lender, at any time after the occurrence and during the continuance of an Event of Default, each Grantor shall notify obligors on the Receivables that the Receivables have been assigned to Lender and that payments in respect thereof shall be made directly to Lender. Anything herein to the contrary notwithstanding, each Grantor shall remain liable under each of the Receivables to observe and perform all the conditions and obligations to be observed and performed by it thereunder, all in accordance with the terms of any agreement giving rise thereto. Lender shall not have any obligation or liability under any Receivable (or any agreement giving rise thereto) by reason of or arising out of this Agreement or the receipt by Lender of any payment relating thereto, nor shall Lender be obligated in any manner to perform any of the obligations of any Grantor under or pursuant to any Receivable (or any agreement giving rise thereto), to make any payment, to make any inquiry as to the nature or the sufficiency of any payment received by it or as to the sufficiency of any performance by any party thereunder, to present or file any claim, to take any action to enforce any performance or to collect the payment of any amounts which may have been assigned to it or to which it may be entitled at any time or times.

### **5.2. Investment Property.**

(a) Unless an Event of Default shall have occurred and be continuing, each Grantor shall be permitted to receive all dividends paid in respect of the Pledged Stock and all payments made in respect of the Pledged Notes, to the extent permitted in the Loan Agreement, and to exercise all voting and corporate or other organizational rights with respect to the Investment Property; provided, however, that no vote shall be cast or corporate or other organizational right exercised or other action taken which would be inconsistent with or result in any violation of any provision of the Loan Agreement, this Agreement or any other Loan Document.

(b) If an Event of Default shall occur and be continuing and Lender shall give notice of its intent to exercise such rights to the relevant Grantor or Grantors, (i) Lender shall have the right to receive any and all cash dividends, payments or other Proceeds paid in respect of the Investment Property and make application thereof to the Obligations in such order as set forth in Section 5.4, and (ii) any or all of the Investment Property shall be registered in the name of Lender or its nominee, and Lender or its nominee may thereafter exercise rights, privileges or options pertaining to such Investment Property as if it were the absolute owner thereof, all without liability except to account for property actually received by it, but Lender shall have no duty to any Grantor to exercise any such right, privilege or option and shall not be responsible for any failure to do so or delay in so doing.

**5.3. Proceeds to be Turned Over To Lender.** If an Event of Default shall occur and be continuing, all Proceeds received by any Grantor consisting of cash, checks, Cash Equivalents and other near-cash items shall be held by such Grantor in trust for Lender, segregated from other funds of such Grantor, and shall, forthwith upon receipt by such Grantor, be turned over to Lender in the exact form received by such Grantor (duly indorsed by such Grantor to Lender, if required). All Proceeds while held by Lender (or by such Grantor in trust for Lender) shall continue to be held as collateral security for all the Obligations and shall not constitute payment thereof until applied as provided in Section 5.4.

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**5.4. Application of Proceeds.** If an Event of Default shall have occurred and be continuing, at any time at Lender's election, Lender may apply all or any part of Proceeds constituting Collateral, whether or not held in any Collateral Account, in payment of the Obligations in the following order:

( a ) *First*, to the payment of all costs and expenses of any sale, collection or other realization on the Collateral, including reasonable compensation to Lender and its agents and counsel, and reimbursement for all other costs, expenses, liabilities and advances made or incurred by Lender in connection therewith (including as described in Section 5.5 hereof), and all amounts for which Lender is entitled to indemnification hereunder and all advances made by Lender hereunder for the account of the applicable Grantor, and to the payment of all costs and expenses paid or incurred by Lender in connection with the exercise of any right or remedy hereunder or under the Loan Agreement or any other Loan Document and to the payment or reimbursement of all indemnification obligations, fees, costs and expenses owing to Lender hereunder or under the Loan Agreement or any other Loan Document, all in accordance with the terms hereof or thereof;

(b) *Second*, for application by it towards all other Obligations; and

(c) *Third*, any balance of such Proceeds remaining after the Discharge of Obligations shall be paid over to or upon the order of such Grantor or to whosoever may be lawfully entitled to receive the same or as a court of competent jurisdiction may direct.

**5.5. Code and Other Remedies.** If an Event of Default shall occur and be continuing, Lender may exercise, in addition to all other rights and remedies granted to them in this Agreement and in any other instrument or agreement securing, evidencing or relating to the Obligations, all rights and remedies of a secured party under the Code or any other applicable law. Without limiting the generality of the foregoing, upon the occurrence and continuance of an Event of Default, Lender, without demand of performance or other demand, presentment, protest, advertisement or notice of any kind (except any notice required by law) to or upon any Grantor or any other Person (all and each of which demands, defenses, advertisements and notices are hereby waived), may in such circumstances forthwith collect, receive, appropriate and realize upon the Collateral, or any part thereof, and/or may forthwith sell, lease, assign, give option or options to purchase, or otherwise dispose of and deliver the Collateral or any part thereof (or contract to do any of the foregoing), in one or more parcels at public or private sale or sales, at any exchange, broker's board or office of Lender or elsewhere upon such terms and conditions as it may deem commercially reasonable and at such prices as it may deem commercially reasonable, for cash or on credit or for future delivery without assumption of any credit risk. Lender shall have the right upon any such public sale or sales, and, to the extent permitted by law, upon any such private sale or sales, to purchase the whole or any part of the Collateral so sold, free of any right or equity of redemption in any Grantor, which right or equity is hereby waived and released. Each Grantor further agrees, at Lender's request, to assemble the Collateral and make it available to Lender at places which Lender shall reasonably select that are reasonably convenient to both parties, whether at such Grantor's premises or elsewhere. Lender shall apply the net proceeds of any action taken by it pursuant to this Section 5.5, after deducting all reasonable costs and expenses of every kind incurred in connection therewith or incidental to the care or safekeeping of any of the Collateral or in any way relating to the Collateral or the rights of Lender hereunder, including, without limitation, reasonable attorneys' fees and disbursements, to the payment in whole or in part of the Obligations, in such order as set forth in Section 5.4, and only after such application and after the payment by Lender of any other amount required by any provision of law, including, without limitation, Section 9-615(a)(3) of the Code, need Lender account for the surplus, if any, to any Grantor. To the extent permitted by applicable law, each Grantor waives all claims, damages and demands it may acquire against Lender arising out of the exercise by them of any rights hereunder. If any notice of a proposed sale or other disposition of Collateral shall be required by law, such notice shall be deemed reasonable and proper if delivered to each applicable Grantor at least 10 days before such sale or other disposition.

**5.6. Intellectual Property License.** Solely for the purpose of enabling Lender to exercise rights and remedies under this Section 5 and at such time as Lender shall be lawfully entitled to exercise such rights and remedies, each Grantor hereby grants to Lender a non-exclusive, worldwide license (exercisable without payment of royalty or other compensation to such Grantor), subject, in the case of Trademarks, to sufficient rights to quality control and inspection in favor of such Grantor to avoid the risk of invalidation of said Trademarks, to use, operate under, license, or sublicense any Intellectual Property now owned or hereafter acquired by the Grantors.

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**5.7. Deficiency.** Each Grantor shall remain liable for any deficiency if the proceeds of any sale or other disposition of the Collateral are insufficient to pay its Obligations and the fees and disbursements of any attorneys employed by Lender to collect such deficiency.

## **SECTION 6. MISCELLANEOUS**

**6.1. Amendments in Writing.** None of the terms or provisions of this Agreement may be waived, amended, supplemented or otherwise modified except in accordance with Section 13.7 of the Loan Agreement.

**6.2. Notices.** All notices, requests and demands to or upon Lender or any Grantor hereunder shall be effected in the manner provided for in Section 11 of the Loan Agreement; provided that any such notice, request or demand to or upon any Guarantor shall be addressed to such Guarantor at its notice address set forth on Schedule 1.

**6.3. No Waiver by Course of Conduct; Cumulative Remedies.** No failure to exercise and no delay in exercising, on the part of Lender, any right, remedy, power or privilege hereunder or under the other Loan Documents shall operate as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege. The rights, remedies, powers and privileges herein provided are cumulative, may be exercised singly or concurrently and not exclusive of any rights, remedies, powers and privileges provided by law.

### **6.4. Enforcement Expenses; Indemnification.**

(a) Each Guarantor agrees to pay or reimburse Lender for all its costs and expenses incurred in collecting against such Guarantor under the guaranty contained in Section 2 of this Agreement or otherwise enforcing or preserving any rights under this Agreement and the other Loan Documents to which such Guarantor is a party, including, without limitation, the reasonable fees and disbursements of counsel (including the allocated fees and expenses of in-house counsel) to Lender.

(b) Each Guarantor agrees to pay, and to save Lender harmless from, any and all liabilities with respect to, or resulting from any delay in paying, any and all stamp, excise, sales or other taxes which may be payable or determined to be payable with respect to any of the Collateral or in connection with any of the transactions contemplated by this Agreement.

(c) Each Guarantor agrees to pay, and to save Lender harmless from, any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements of any kind or nature whatsoever with respect to the execution, delivery, enforcement, performance and administration of this Agreement to the extent Borrower would be required to do so pursuant to the Loan Agreement.

(d) The agreements in this Section 6.4 shall survive repayment of the Obligations and any other amounts payable under the Loan Agreement and the other Loan Documents.

**6.5. Successors and Assigns.** This Agreement shall be binding upon the successors and assigns of each Grantor and shall inure to the benefit of Lender and its successors and assigns; provided that no Grantor may assign, transfer or delegate any of its rights or obligations under this Agreement without the prior written consent of Lender.

**6.6. Set-Off.** Each Grantor hereby irrevocably authorizes Lender and any Affiliate thereof at any time and from time to time after the occurrence and during the continuance of an Event of Default, without notice to such Grantor or any other Grantor, any such notice being expressly waived by each Grantor, to set-off and appropriate and apply any and all deposits (general or special, time or demand, provisional or final), in any currency, and any other credits, indebtedness or claims, in any currency, in each case whether direct or indirect, absolute or contingent, matured or unmatured, at any time held or owing by Lender or such Affiliate to or for the credit or the account of such Grantor, or any part thereof in such amounts as Lender may elect, against and on account of the Obligations and liabilities of such Grantor to Lender hereunder and under the other Loan Documents and claims of every nature and description of Lender against such Grantor, in any currency, whether arising hereunder, under the Loan Agreement, any other Loan Document, the Purchase Agreement or otherwise, as Lender may elect, whether or not Lender has made any demand for payment and although such obligations, liabilities and claims may be contingent or unmatured. The rights of Lender under this Section 6.6 are in addition to other rights and remedies (including, without limitation, other rights of set-off) which Lender may have.

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**6.7. Counterparts.** This Agreement may be executed by one or more of the parties to this Agreement on any number of separate counterparts, and all of said counterparts taken together shall be deemed to constitute one and the same instrument. Delivery of an executed signature page of this Agreement by facsimile transmission shall be effective as delivery of a manually executed counterpart hereof (with originals to follow promptly thereafter). A set of the copies of this Agreement signed by all the parties shall be lodged with Borrower and Lender

**6.8. Severability.** Any provision of this Agreement that is 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.

**6.9. Section Headings.** The Section headings used in this Agreement are for convenience of reference only and are not to affect the construction hereof or be taken into consideration in the interpretation hereof.

**6.10. Integration.** This Agreement and the other Loan Documents represent the agreement of the Grantors, Lender with respect to the subject matter hereof and thereof, and there are no promises, undertakings, representations or warranties by Lender relative to subject matter hereof and thereof not expressly set forth or referred to herein or in the other Loan Documents.

**6.11. GOVERNING LAW.** THIS AGREEMENT AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES UNDER THIS AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED AND INTERPRETED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK.

**6.12. Submission To Jurisdiction; Waivers.** Each party hereto hereby irrevocably and unconditionally:

(a) submits to the exclusive jurisdiction of the State and Federal courts in New York City; provided, however, that nothing in this Agreement shall be deemed to operate to preclude Lender from bringing suit or taking other legal action in any other jurisdiction to realize on the Collateral or any other security for the Obligations, or to enforce a judgment or other court order in favor of Lender;

(b) expressly submits and consents in advance to such jurisdiction in any action or suit commenced in any such court, and hereby waives any objection that they may have based upon lack of personal jurisdiction, improper venue, or forum non conveniens and hereby consents to the granting of such legal or equitable relief as is deemed appropriate by such court;

(c) waives personal service of the summons, complaints, and other process issued in such action or suit and agrees that service of such summons, complaints, and other process may be made by registered or certified mail addressed to such party at the addresses provided in Section 6.2 of this Agreement and that service so made shall be deemed completed upon the earlier to occur of such party's actual receipt thereof or three (3) days after deposit in the U.S. mails, proper postage prepaid;

(d) waives, to the maximum extent not prohibited by law, any right it may have to claim or recover in any legal action or proceeding referred to in this Section any special, exemplary, punitive or consequential damages.

**6.13. Acknowledgements.** Each Grantor hereby acknowledges that:

(a) it has been advised by counsel in the negotiation, execution and delivery of this Agreement and the other Loan Documents to which it is a party;

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(b) Lender does have any fiduciary relationship with or duty to any Grantor arising out of or in connection with this Agreement or any of the other Loan Documents, and the relationship between the Grantors, on the one hand, and Lender, on the other hand, in connection herewith or therewith is solely that of debtor and creditor; and

(c) no joint venture is created hereby or by the other Loan Documents or otherwise exists by virtue of the transactions contemplated hereby among the Grantors and Lender.

**6.14. Additional Grantors.** Each Subsidiary of the Borrower that is required to become a party to this Agreement pursuant to Section 6.9 of the Loan Agreement shall become a Grantor for all purposes of this Agreement upon execution and delivery by such Subsidiary of a joinder in form and substance acceptable to Lender.

**6.15. Releases.** Upon the Discharge of Obligations, the Collateral shall be released from the Liens in favor of Lender created hereby, this Agreement shall terminate with respect to Lender all obligations (other than those expressly stated to survive such termination) of each Grantor to Lender hereunder shall terminate, and all rights to the Collateral shall revert to the applicable Grantors, all without delivery of any instrument or performance of any act by any party. At the sole expense of any Grantor following any such termination, Lender shall deliver such documents as such Grantor shall reasonably request to evidence such termination.

**6.16. WAIVER OF JURY TRIAL.** EACH GRANTOR AND LENDER HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES ITS RIGHT TO A JURY TRIAL OF ANY CLAIM OR CAUSE OF ACTION ARISING OUT OF OR BASED UPON THIS AGREEMENT, THE OTHER LOAN DOCUMENTS OR ANY CONTEMPLATED TRANSACTION, INCLUDING CONTRACT, TORT, BREACH OF DUTY AND ALL OTHER CLAIMS. THIS WAIVER IS A MATERIAL INDUCEMENT FOR THE PARTIES TO ENTER INTO THIS AGREEMENT. EACH PARTY HAS REVIEWED THIS WAIVER WITH ITS COUNSEL.

*[Remainder of page intentionally left blank]*

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IN WITNESS WHEREOF, each of the undersigned has caused this Guarantee and Collateral Agreement to be duly executed and delivered as of the date first above written.

Grantors:

WORKHORSE GROUP INC.

By: \_\_\_\_\_  
Name:  
Title:

WORKHORSE TECHNOLOGIES INC.

By: \_\_\_\_\_  
Name:  
Title:

WORKHORSE PROPERTIES INC.

By: \_\_\_\_\_  
Name:  
Title:

WORKHORSE MOTOR WORKS INC.

By: \_\_\_\_\_  
Name:  
Title:

SUREFLY, INC.

By: \_\_\_\_\_  
Name:  
Title:

[Signature Page to Guarantee and Collateral Agreement]

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Lender:

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By:

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Name:

Title:

[Signature Page to Guarantee and Collateral Agreement]

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## NOTICE ADDRESSES OF GUARANTORS

c/o Workhorse Group Inc.  
100 Commerce Drive  
Loveland, Ohio 45140  
Attn:  
Email: paul.gaitan@workhorse.com

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## DESCRIPTION OF INVESTMENT PROPERTY

**Pledged Stock:**

Grantor	Issuer	Class of Capital Stock	Certificate No.	No. of Shares
Workhorse Group Inc.	Workhorse Technologies Inc.	Common Stock	N/A	1,000
Workhorse Group Inc.	Workhorse Properties Inc.	Common Stock	N/A	1,000
Workhorse Group Inc.	Workhorse Motor Works Inc.	Common Stock	N/A	200
Workhorse Technologies Inc.	Surefly, Inc.	Common Stock	1	1,000

**Pledged Notes:** None.**Securities Accounts:** None.**Commodities Accounts:** None.**Deposit Accounts:**

Depository Bank	Account Holder	Address	Account Number(s)
PNC Bank	Workhorse Technologies Inc.	9180 Union Cemetery Road Cincinnati, OH 45249	40-0712-9788
PNC Bank	Workhorse Technologies Inc.	9180 Union Cemetery Road Cincinnati, OH 45249	40-0876-0352
PNC Bank	Workhorse Technologies Inc.	9180 Union Cemetery Road Cincinnati, OH 45249	42-4047-6014
PNC Bank	Workhorse Technologies Inc.	9180 Union Cemetery Road Cincinnati, OH 45249	41-0284-5707
PNC Bank	Workhorse Technologies Inc.	9180 Union Cemetery Road Cincinnati, OH 45249	20-70-002-6802486
PNC Bank	Workhorse Technologies Inc.	9180 Union Cemetery Road Cincinnati, OH 45249	42-7257-6896

Schedule 3

LOCATION OF JURISDICTION OF ORGANIZATION  
AND CHIEF EXECUTIVE OFFICE, ETC.

<u>Grantor</u>	<u>Jurisdiction of Organization</u>	<u>Organizational Identification Number</u>	<u>Location of Chief Executive Officer</u>
Workhorse Group Inc.	Nevada	E0780542007-8	100 Commerce Drive Loveland, Ohio 45140
Workhorse Technologies Inc.	Ohio	1679236	100 Commerce Drive Loveland, Ohio 45140
Workhorse Properties Inc.	Ohio	3943690	100 Commerce Drive Loveland, Ohio 45140
Workhorse Motor Works Inc.	Indiana	2013011400560	100 Commerce Drive Loveland, Ohio 45140
Surefly, Inc.	Delaware	6675215	100 Commerce Drive Loveland, Ohio 45140

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## LOCATIONS OF EQUIPMENT AND INVENTORY

<u>Grantor</u>	<u>Locations</u>
Workhorse Group Inc.	100 Commerce Drive Loveland, Ohio 45140
Workhorse Technologies Inc.	100 Commerce Drive Loveland, Ohio 45140
Workhorse Properties Inc.	100 Commerce Drive Loveland, Ohio 45140
Workhorse Motor Works Inc.	940 South SR 32 Union City, IN 47390
Surefly, Inc.	100 Commerce Drive Loveland, Ohio 45140

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## REGISTRATIONS AND APPLICATIONS FOR PATENTS

Code/Matter No.	Country	Serial Number	Application Date	Patent Number	Issue/Grant Date	Expiration Date	Title	Assignee
AMPI	Canada	2523653	10/17/2005	2523653	12/22/2009	10/17/2025	VEHICLE CHASSIS ASSEMBLY	AMP Trucks Inc.
AMPI	United States	11/252,220	10/17/2005	7,717,464	05/18/2010	09/06/2026	Vehicle Chassis Assembly	AMP Trucks Inc.
AMPI	United States	11/252,219	10/17/2005	7,559,578	07/14/2009	09/06/2026	Vehicle Chassis Assembly	AMP Trucks Inc.
AMPI	United States	29/243,074	11/18/2005	D561,078	02/05/2008	02/05/2022	Vehicle Header	AMP Trucks Inc.
AMPI	United States	29/243,129	11/18/2005	D561,079	02/05/2008	02/05/2022	Vehicle Header	AMP Trucks Inc.
AMPI 10US	United States	13/283,663	10/28/2011	8,541,915	09/24/2013	12/16/2031	DRIVE MODULE AND MANIFOLD FOR ELECTRIC MOTOR DRIVE ASSEMBLY	Workhorse Group Incorporated
AMPI 23U	United States	14/606,497	01/27/2015	9,481,256	11/01/2016	05/03/2035	ONBOARD GENERATOR DRIVE SYSTEM FOR ELECTRIC VEHICLES	Workhorse Group Incorporated
AMPI 24A	United States	15/915,144	03/08/2018				PACKAGE DELIVERY BY MEANS OF AN AUTOMATED MULTI-COPTER UAS/UAV DISPATCHED FROM A CONVENTIONAL DELIVERY VEHICLE	Workhorse Group Incorporated
AMPI 24U	United States	14/989,870	01/07/2016	9,915,956	03/13/2018	06/24/2036	PACKAGE DELIVERY BY MEANS OF AN AUTOMATED MULTI-COPTER UAS/UAV DISPATCHED FROM A CONVENTIONAL DELIVERY VEHICLE	Workhorse Group Incorporated
AMPI 26U	United States	15/944,185	05/31/2018				AUXILIARY POWER SYSTEM FOR ROTORCRAFT WITH FOLDING PROPELLER ARMS AND CRUMPLE ZONE LOADING GEAR	Surefly, Inc.
AMPI-26WO	PCT	US2018/035353	5/31/2018				AUXILIARY POWER SYSTEM	Surefly, Inc.

						FOR ROTORCRAFT WITH FOLDING PROPELLER ARMS AND CRUMPLE ZONE LOADING GEAR	
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## REGISTRATIONS AND APPLICATIONS FOR COPYRIGHTS

None.

## REGISTRATIONS AND APPLICATIONS FOR TRADEMARK

Code/Matter No.	Mark Name	Country	Current Owner	Application Number	Application Date	Registration Number	Registration Date	Classes	Goods
AMPI 01	NOTHING OUTWORKS A WORKHORSE	Canada	Workhorse Custom Chassis, LLC	1,053,053	03/30/2000	601,870	02/11/2004	N/A	Chassis, bodies and parts thereof for delivery trucks, recreational land vehicles, buses and other specialty motorized vehicles, namely, auto transport trucks, concrete mixer trucks, dump trucks, garbage hauler trucks, oil-field trucks, stake and platform trucks, tank trucks, wrecker and tow trucks and scissors trucks, but specifically excluding utility cars for turf maintenance for use at golf courses, country clubs, municipalities, building complexes and large scale industrial complexes
AMPI 01	WORKHORSE CUSTOM CHASSIS	Canada	Workhorse Custom Chassis, LLC	1,053,052	03/30/2000	601,775	02/10/2004	N/A	Chassis, bodies and parts thereof for delivery trucks, recreational land vehicles, buses and other specialty motorized vehicles, namely, auto transport trucks, concrete mixer trucks, dump trucks, garbage hauler trucks, oil-field

									trucks, stake and platform trucks, tank trucks, wrecker and tow trucks and scissors trucks, but specifically excluding utility cars for turf maintenance for use at golf courses, country clubs, municipalities, building complexes and large scale industrial complexes
AMPI 01	Workhorse UFO and Logo	Canada	Workhorse Custom Chassis, LLC	1,328,215	12/14/2006	757,840	01/26/2010	N/A	Chassis and bodies for recreational vehicles
AMPI 01	WORKHORSE	Canada	Workhorse Custom Chassis, LLC	1,468,395	02/04/2010	783,257	11/23/2010	N/A	Chassis, bodies, and parts thereof, for recreational land vehicles, buses and trucks
AMPI 01	WORKHORSE	Mexico	Workhorse Custom Chassis, LLC	1068329	02/18/2010	1200569	02/10/2011		
AMPI 01	WORKHORSE CUSTOM CHASSIS	Mexico	Workhorse Custom Chassis, LLC	419462	04/05/2000	685022	01/31/2001		
AMPI 01	NOTHING OUTWORKS A WORKHORSE	Mexico	Workhorse Custom Chassis, LLC	419463	04/05/2000	685023	01/31/2001		
AMPI 01	WORKHORSE CUSTOM CHASSIS	United States	AMP Trucks Inc.	75/816,152	10/05/1999	2,413,878	12/19/2000	12	Chassis, bodies, and parts thereof, for recreational land vehicles, buses
AMPI 15IS	AMP	Iceland	Workhorse Group Incorporated	1295/2011	05/05/2011	557/2011	05/31/2011	12	Electric drives for vehicles; Electric vehicles, namely, land vehicles
AMPI 25	WORKHORSE	United States	AMP Trucks Inc.	78/571,788	02/21/2005	3,214,777	03/06/2007	12	Chassis, bodies, and parts thereof, for recreational land vehicles, buses and

									trucks
AMPI 27	SUREFLY	United States	Workhorse Group Incorporated	87/431,425	05/01/2017	5,476,952	05/22/2018	12	Aircraft
AMPI 28	Horsefly	United States	Workhorse Group Incorporated	87/770,725	01/25/2018			12	Package Delivery System Utilizing Drones

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## INTELLECTUAL PROPERTY SECURITY AGREEMENT

**THIS INTELLECTUAL PROPERTY SECURITY AGREEMENT** (as amended, amended and restated, supplemented or otherwise modified from time to time, the “**IP Security Agreement**”) dated as of July 6, 2018, is made by WORKHORSE GROUP INC., a Nevada corporation (“**Borrower**”), WORKHORSE TECHNOLOGIES INC., an Ohio corporation (“**WH Technologies**”), WORKHORSE PROPERTIES INC., an Ohio corporation (“**WH Properties**”), WORKHORSE MOTOR WORKS INC., an Indiana corporation (“**WH MW**”), and SUREFLY, INC., a Delaware corporation (“**Surefly**” and together with Borrower, WH Technologies, WH Properties, and WH MW, collectively, the “**Grantors**” and each individually a “**Grantor**”) in favor of \_\_\_\_\_, a Cayman Islands exempted limited partnership (“**Lender**”), as lender under that certain Loan Agreement dated as of the date hereof between Borrower and Lender (as amended and restated, supplemented or otherwise modified from time to time, the “**Loan Agreement**”). Terms defined in the Loan Agreement and not otherwise defined herein are used herein as defined in the Loan Agreement.

WHEREAS, as a condition precedent to the making of the Loan by Lender under the Loan Agreement, each Grantor has executed and delivered that certain Guarantee and Collateral Agreement dated as of the date hereof between the Grantors and the Lender (as amended, amended and restated, supplemented or otherwise modified from time to time, the “**Security Agreement**”).

WHEREAS, under the terms of the Security Agreement, each Grantor has granted a security interest in, among other property, certain intellectual property of such Grantor to the Lender, and has agreed as a condition thereof to execute this IP Security Agreement covering such intellectual property for recording with the U.S. Patent and Trademark Office, the United States Copyright Office and other governmental authorities.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, each Grantor agrees as follows:

**SECTION 1. Grant of Security.** Each Grantor hereby grants to the Lender a security interest in and to all of such Grantor’s right, title and interest in and to the following (the “**IP Collateral**”):

(i) the United States, international and foreign patents, patent applications and patent licenses set forth in Schedule A hereto (as such Schedule A may be supplemented from time to time by supplements to the Security Agreement and this IP Security Agreement (each such supplement, an “**IP Security Agreement Supplement**”), executed and delivered by any Grantor to the Lender from time to time), together with all reissues, divisions, continuations, continuations-in-part, extensions and reexaminations thereof, and all rights therein provided by international treaties or conventions (the “**Patents**”);

(ii) the United States and foreign trademark and service mark registrations, applications, and licenses set forth in Schedule B hereto (as such Schedule B may be supplemented from time to time by IP Security Agreement Supplements executed and delivered by any Grantor to the Lender from time to time) (the “**Trademarks**”);

(iii) the copyrights, United States and foreign copyright registrations and applications and copyright licenses set forth in Schedule C hereto (as such Schedule C may be supplemented from time to time by IP Security Agreement Supplements executed and delivered by any Grantor to the Lender from time to time) (the “**Copyrights**”);

(iv) any and all claims for damages for past, present and future infringement, misappropriation or breach with respect to the Patents, Trademarks and Copyrights, with the right, but not the obligation, to sue for and collect, or otherwise recover, such damages; and

(v) any and all proceeds of the foregoing.

Notwithstanding the foregoing, however, the IP Collateral shall not include any intent-to-use trademarks, prior to the filing of a “Statement of Use” with respect thereto if and solely to the extent that (and so long as) any such intent-to-use trademark application would be rendered void by the attachment or creation of a security interest in the right, title or interest of such Grantor therein).

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**SECTION 2. Security for Obligations.** The grant of a security interest in the IP Collateral by each Grantor under this IP Security Agreement secures the payment of the Obligations of such Grantor now or hereafter existing, whether direct or indirect, absolute or contingent, and whether for principal, reimbursement obligations, interest (including any interest that accrues after the commencement of bankruptcy), premiums, penalties, fees, indemnifications, contract causes of action, costs, expenses or otherwise.

**SECTION 3. Recordation.** Each Grantor authorizes and requests that the Register of Copyrights, the Commissioner of Patents and Trademarks and any other applicable government office record this IP Security Agreement.

**SECTION 4. Execution in Counterparts.** This IP Security 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 taken together shall constitute one and the same agreement.

**SECTION 5. Grants, Rights and Remedies.** This IP Security Agreement has been entered into in conjunction with the provisions of the Security Agreement. Each Grantor does hereby acknowledge and confirm that the grant of the security interest hereunder to, and the rights and remedies of, the Lender with respect to the IP Collateral are more fully set forth in the Security Agreement, the terms and provisions of which are incorporated herein by reference as if fully set forth herein. In the event of any conflict between the Security Agreement and this IP Security Agreement, the provisions of the Security Agreement shall control.

**SECTION 6. Governing Law.** This IP Security Agreement shall be governed by, and construed in accordance with, the law of the State of New York.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, each Grantor has caused this IP Security Agreement to be duly executed and delivered by its officer thereunto duly authorized as of the date first above written.

**Address for Notices:**

**WORKHORSE GROUP INC.,** as a Grantor

Address:  
Attention:  
Telephone:  
E-mail:

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Address:  
Attention:  
Telephone:  
E-mail:

**WORKHORSE TECHNOLOGIES INC.,** as a Grantor

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Address:  
Attention:  
Telephone:  
E-mail:

**WORKHORSE PROPERTIES INC.,** as a Grantor

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Address:  
Attention:  
Telephone:  
E-mail:

**WORKHORSE MOTOR WORKS INC.,** as a Grantor

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Address:  
Attention:  
Telephone:  
E-mail:

**SUREFLY, INC.,** as a Grantor

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

(Signature Page to IP Security Agreement)

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IN WITNESS WHEREOF, the Lender has caused this IP Security Agreement to be duly executed and delivered by its officer thereunto duly authorized as of the date first above written.

\_\_\_\_\_, as Lender

By: \_\_\_\_\_  
Name:  
Its:

**Address for Notices:**

(Signature Page to IP Security Agreement)

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**PATENTS:**

<b>Code/Matter No.</b>	<b>Country</b>	<b>Serial Number</b>	<b>Application Date</b>	<b>Patent Number</b>	<b>Issue/Grant Date</b>	<b>Expiration Date</b>	<b>Title</b>	<b>Assignee</b>
AMPI	Canada	2523653	10/17/2005	2523653	12/22/2009	10/17/2025	VEHICLE CHASSIS ASSEMBLY	AMP Trucks Inc.
AMPI	United States	11/252,220	10/17/2005	7,717,464	05/18/2010	09/06/2026	Vehicle Chassis Assembly	AMP Trucks Inc.
AMPI	United States	11/252,219	10/17/2005	7,559,578	07/14/2009	09/06/2026	Vehicle Chassis Assembly	AMP Trucks Inc.
AMPI	United States	29/243,074	11/18/2005	D561,078	02/05/2008	02/05/2022	Vehicle Header	AMP Trucks Inc.
AMPI	United States	29/243,129	11/18/2005	D561,079	02/05/2008	02/05/2022	Vehicle Header	AMP Trucks Inc.
AMPI 10US	United States	13/283,663	10/28/2011	8,541,915	09/24/2013	12/16/2031	DRIVE MODULE AND MANIFOLD FOR ELECTRIC MOTOR DRIVE ASSEMBLY	Workhorse Group Incorporated
AMPI 23U	United States	14/606,497	01/27/2015	9,481,256	11/01/2016	05/03/2035	ONBOARD GENERATOR DRIVE SYSTEM FOR ELECTRIC VEHICLES	Workhorse Group Incorporated
AMPI 24A	United States	15/915,144	03/08/2018				PACKAGE DELIVERY BY MEANS OF AN AUTOMATED MULTI-COPTER UAS/UAV DISPATCHED FROM A CONVENTIONAL DELIVERY VEHICLE	Workhorse Group Incorporated
AMPI 24U	United States	14/989,870	01/07/2016	9,915,956	03/13/2018	06/24/2036	PACKAGE DELIVERY BY MEANS OF AN AUTOMATED MULTI-COPTER UAS/UAV DISPATCHED FROM A CONVENTIONAL DELIVERY VEHICLE	Workhorse Group Incorporated
AMPI 26U	United States	15/944,185	05/31/2018				AUXILIARY POWER SYSTEM FOR ROTORCRAFT WITH FOLDING PROPELLER ARMS AND CRUMPLE ZONE LOADING GEAR	Surefly, Inc.
AMPI-26WO	PCT	US2018/035353	5/31/2018				AUXILIARY POWER SYSTEM FOR ROTORCRAFT WITH FOLDING PROPELLER ARMS AND CRUMPLE ZONE LOADING GEAR	Surefly, Inc.



TRADEMARKS

Code/Matter No.	Mark Name	Country	Current Owner	Application Number	Application Date	Registration Number	Registration Date	Classes	Goods
AMPI 01	NOTHING OUTWORKS A WORKHORSE	Canada	Workhorse Custom Chassis, LLC	1,053,053	03/30/2000	601,870	02/11/2004	N/A	Chassis, bodies and parts thereof for delivery trucks, recreational land vehicles, buses and other specialty motorized vehicles, namely, auto transport trucks, concrete mixer trucks, dump trucks, garbage hauler trucks, oil-field trucks, stake and platform trucks, tank trucks, wrecker and tow trucks and scissors trucks, but specifically excluding utility cars for turf maintenance for use at golf courses, country clubs, municipalities, building complexes and large scale industrial complexes
AMPI 01	WORKHORSE CUSTOM CHASSIS	Canada	Workhorse Custom Chassis, LLC	1,053,052	03/30/2000	601,775	02/10/2004	N/A	Chassis, bodies and parts thereof for delivery trucks, recreational land vehicles, buses and other specialty motorized vehicles, namely, auto transport trucks, concrete mixer trucks, dump trucks, garbage hauler trucks, oil-field trucks, stake and platform trucks, tank trucks, wrecker and

									tow trucks and scissors trucks, but specifically excluding utility cars for turf maintenance for use at golf courses, country clubs, municipalities, building complexes and large scale industrial complexes
AMPI 01	Workhorse UFO and Logo	Canada	Workhorse Custom Chassis, LLC	1,328,215	12/14/2006	757,840	01/26/2010	N/A	Chassis and bodies for recreational vehicles
AMPI 01	WORKHORSE	Canada	Workhorse Custom Chassis, LLC	1,468,395	02/04/2010	783,257	11/23/2010	N/A	Chassis, bodies, and parts thereof, for recreational land vehicles, buses and trucks
AMPI 01	WORKHORSE	Mexico	Workhorse Custom Chassis, LLC	1068329	02/18/2010	1200569	02/10/2011		
AMPI 01	WORKHORSE CUSTOM CHASSIS	Mexico	Workhorse Custom Chassis, LLC	419462	04/05/2000	685022	01/31/2001		
AMPI 01	NOTHING OUTWORKS A WORKHORSE	Mexico	Workhorse Custom Chassis, LLC	419463	04/05/2000	685023	01/31/2001		
AMPI 01	WORKHORSE CUSTOM CHASSIS	United States	AMP Trucks Inc.	75/816,152	10/05/1999	2,413,878	12/19/2000	12	Chassis, bodies, and parts thereof, for recreational land vehicles, buses
AMPI 15IS	AMP	Iceland	Workhorse Group Incorporated	1295/2011	05/05/2011	557/2011	05/31/2011	12	Electric drives for vehicles; Electric vehicles, namely, land vehicles
AMPI 25	WORKHORSE	United States	AMP Trucks Inc.	78/571,788	02/21/2005	3,214,777	03/06/2007	12	Chassis, bodies, and parts thereof, for recreational land vehicles, buses and trucks
AMPI 27	SUREFLY	United States	Workhorse Group Incorporated	87/431,425	05/01/2017	5,476,952	05/22/2018	12	Aircraft
AMPI 28	Horsefly	United States	Workhorse Group	87/770,725	01/25/2018			12	Package Delivery

			<b>Incorporated</b>						<b>System Utilizing Drones</b>
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Schedule B To the Intellectual Property Agreement

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None.

Schedule C To the Intellectual Property Agreement

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